

UNIV
N

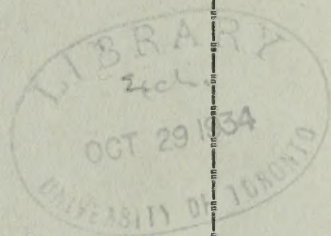
The University of New Mexico
Bulletin

NEW MEXICO RETIREMENT
SYSTEM WITH MODEL
PLAN AND LAWS



By
JOHN EDWARD SEYFRIED
University of New Mexico
and
DEWITT GRADY ROBINSON
Belen Public Schools

UNIVERSITY OF NEW MEXICO PRESS
1934



ack 2

Edic. Series
vol. 8. No. 4

253.

The University of New Mexico Bulletin

Evaluation of the Retirement System for Professional Employees in the New Mexico State Schools with Model Retirement Plan and Laws



By

JOHN EDWARD SEYFRIED

University of New Mexico

and

DEWITT GRADY ROBINSON

Belen Public Schools

THE UNIVERSITY OF NEW MEXICO BULLETIN

Education Series

Volume 8

Number 4

Whole Number 253

October 15, 1934

Published twice a month by the University of New Mexico
Albuquerque, New Mexico

Entered as Second Class Matter, May 1, 1906, at the post office at Albuquerque,
New Mexico, under Act of Congress of July 16, 1894.

PREFACE

This report is based upon a study of the New Mexico retirement system made by Mr. D. G. Robinson, under the direction of Dr. J. E. Seyfried, in partial fulfillment of the requirements for the degree of Master of Arts in the University of New Mexico. The investigation was in progress at the time the New Mexico legislature enacted the present retirement law.

Although the report conforms basically to the thesis, it contains a number of important changes and additions. Two model laws, conforming to the most advanced thought and practices on the subject of retirement systems and adapted to conditions in New Mexico, have been added. In the laws the major emphasis has been placed upon content rather than form, although some effort was expended to make the instruments conform to legal phraseology.

The writers acknowledge their indebtedness to Dr. George I. Sanchez, director of the Bureau of Information and Statistics of the New Mexico State Department of Education, for assisting in the collection of actuarial data, and to Dr. Rainard B. Robbins, secretary of the Teachers Insurance and Annuity Association of America, for aid in evaluating the New Mexico retirement law and for making suggestions on the manuscript. They also express a debt of gratitude to the national insurance company that furnished suggestions and estimates for the proposed plan. To avoid any criticism from a commercial point of view, the insurance company's name has not been stated in these pages.

The authors present this monograph to the profession and to the public with the hope that it may be of some service to the cause of education and public welfare. They are of the conviction that any security accorded school teachers through a sound retirement system will be of social value and that the financial outlay involved will be outweighed by increased efficiency.

TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION	
Importance of the Subject -----	7
Purpose of the Study -----	9
Definitions and Delimitations -----	9
Sources of Data -----	11
Procedure -----	12
II. BASIC PRINCIPLES OF AND METHODS OF FINANCING RETIREMENT SYSTEMS	
Introduction -----	13
Principles and a Discussion Thereof -----	13
Financing a Retirement Plan -----	21
III. EVALUATION OF THE NEW MEXICO RETIREMENT PLAN	
Introduction -----	26
Summary of the New Mexico Plan -----	26
Evaluation of the New Mexico Plan -----	28
Finances and Benefits -----	33
The New Mexico Plan from the Teachers' Point of View -----	39
Conclusions -----	41
IV. A PROPOSED TEACHER RETIREMENT PLAN FOR NEW MEXICO	
Introduction -----	42
The Plan Proposed for New Mexico -----	42
Financing the Plan -----	50
V. COST AND OPERATION OF THE PROPOSED NEW MEXICO TEACHERS RETIREMENT PLAN	
Introduction -----	51
Actuarial Data -----	51
Analysis of Costs to the State -----	52
Costs and Benefits to Teachers -----	56
Total Costs to the State -----	59

Chapter	Page
VI. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS	
Summary of Conclusions	60
General Recommendations	64
VII. THE PROPOSED LAWS	
Introduction	65
Proposed Retirement Law for New Mexico, Involving Underwriting by an Insurance Company	66
Proposed Retirement Law for New Mexico, Involving Self-Insurance	78
APPENDIXES	
Appendix A. Rainard B. Robbins' Evaluation of the Principles Recommended by the National Education Association	93
Appendix B. Present Retirement Law for New Mexico	103
Appendix C. Letter from Rainard B. Robbins, Regarding the Present New Mexico Retirement System	106
BIBLIOGRAPHY	109
INDEX	111

EVALUATION OF THE RETIREMENT SYSTEM FOR PROFESSIONAL EMPLOYEES IN THE NEW MEXICO STATE SCHOOLS, WITH MODEL RETIREMENT PLAN AND LAWS

CHAPTER I INTRODUCTION

IMPORTANCE OF THE SUBJECT

A retirement plan or pension system for teachers has been advocated by many writers in the field of educational administration. The chief reasons advanced by them, as well as by others who favor retirement systems, are: (1) relief of need; (2) reward for service; (3) economy of operation; and (4) maintenance of good morale among employees.

That retirement systems have great social value is no longer seriously doubted. On June 8, 1934, President Roosevelt emphatically declared himself in favor of pensions for protection against unemployment and old age, and pledged himself to work for them as a part of the "New Deal." Many of the large industrial corporations have inaugurated retirement systems and report highly satisfactory outcomes. In 1930 twenty-two states and the District of Columbia had state-wide pension systems for public school teachers. Fifteen other states had either limited state-wide plans or local plans. In other words, only eleven states were without some type of pension plan for public school teachers.¹

Conditions are still far from being satisfactory, however, as a large percentage of the old-age population even today find themselves dependent. A recent study discloses that of 31,000 persons sixty-five years of age and older liv-

1. National Education Association. *Current Issues in Teacher Retirement*, p. 230. (For further information on this and other references cited, turn to the bibliography.)

ing in certain industrial areas of New York, New Jersey, Pennsylvania, Connecticut, and Massachusetts, approximately thirty per cent have no visible means of support.² There is reason to believe that many teachers of comparable age are, on account of short and uncertain tenure, low salaries, and professional demands, in economic circumstances no more favorable.

What to do with those faithful public servants who have given their lives to teaching and who have been unable to accumulate an estate sufficient to support them when productive days are over, is a serious social problem. If recent trends may be taken as an index, the most favorable course would be to establish retirement systems. M. B. Folsom, assistant treasurer of Eastman Kodak Company, is definitely of the same point of view. In speaking on the subject, he says:

Good humane management will not permit employees of long service to be discharged if they have not adequate means of sustenance. Yet good management cannot keep employees on the force when they are no longer productive. The solution is the inauguration of a sound and adequate pension plan.³

In New Mexico several sporadic attempts to establish retirement systems for teachers have been made. During recent years the New Mexico Educational Association has considered the problem of a state-wide retirement plan. A standing committee has devised a retirement system for the teachers of the Albuquerque city schools. Several years ago the Raton board of education had a national insurance company compute the cost of a retirement system for its public school teachers.

These scattered efforts probably have had some effect upon the political leaders of the state, for the Eleventh Legislature of New Mexico, acting upon recommendations

2. Folsom, M. B. "Old Age on the Balance Sheet," p. 400.

3. *Ibid.*, p. 406.

of the late Governor Arthur Seligman, passed a bill creating a retirement system. Although the law has many defects when viewed in light of the recommendations of authorities and the most progressive plans in operation, it is noteworthy in that it represents a conscious response to a growing demand for legislation of such a nature. The New Mexico plan is described and evaluated in Chapter III.

PURPOSE OF THE STUDY

The purpose of this study is to evaluate the present New Mexico teacher retirement plan, and to make recommendations with a view to overcoming any weaknesses disclosed. More specifically, in this investigation, answers to the following five questions are sought:

1. According to authorities, what basic principles should a socially and economically sound retirement plan contain?
2. To what extent does the plan now in operation in New Mexico contain these principles?
3. What changes would have to be made in the New Mexico retirement system to make it sound and in conformity with the best thought and experience on the subject?
4. What would a sound retirement plan for New Mexico cost, and how should it be financed?
5. What benefits would accrue to New Mexico public school teachers from a retirement plan modeled in accordance with the findings of this investigation?

DEFINITIONS AND DELIMITATIONS

The term "professional employees" or "public school teachers" is defined as certificated public school teachers, principals, supervisors, school nurses, librarians, county school superintendents, city school superintendents, and assistant school superintendents. The term "public schools" includes all the tax-supported institutions under the direction of the New Mexico State Board of Education that are

doing formal school work below the college level.' Disability is defined as total and permanent incapacity to discharge the duties of one's profession.

The terms "retirement system" and "pension system" are employed interchangeably in this report.

Three other terms occurring frequently in this report and in the literature on retirement systems are "self-insurance," "simple life annuity," and "refunding annuity." The first is that method by which an organization establishes a trust fund and administers it through a board of trustees for the purpose of meeting liability incurred under an insurance or retirement system. A simple life annuity is a series of equal payments made at equal or regular intervals, such payments continuing to the time of death of the recipient, called the annuitant, with no residue payable at his death. A refunding annuity differs from a simple life annuity in that the full equity of the member's account at the time of retirement will be paid even though he dies before the total amount is paid in annuities. In other words, the member receives an annuity for life, and if the total of the payments does not equal the equity to his account the

4. Higher institutions have not been considered, except incidentally, in this study. The authors do not mean to imply that members of higher-institution faculties should not be afforded protection against economic need in old age. In fact, some persons are of the opinion that members of college faculties are, as a whole, so poorly paid that many capable men are discouraged from entering, or are driven from the profession, as a result.

Whether or not a state retirement system for teachers should include in its membership employees of the higher institutions is a moot question. The Teachers Insurance and Annuity Association of America, a non-profit organization, incorporated through the Carnegie Foundation for the Advancement of Teaching and the Carnegie Corporation, the stock being owned by the latter, offers a retirement plan to college faculties. This plan is forward looking and sound, and widely used by higher institutions. The basic principles of the plan are practically the same as those recommended in this study. In brief, the plan as in effect in many institutions, involves joint equal contribution on the part of employer and employee: specified annuity payments beginning at a stated age, with the right of the policyholder to have the payments begin at an earlier age, the amount of the benefit to be adjusted accordingly; in case of death prior to retirement, accumulated premiums are paid to a beneficiary or the member's estate in 120 monthly installments. The policy contains neither a loan provision nor a cash surrender clause. It may be carried from one institution to another, with all rights accrued thereunder.

For further details of the plan and for the status of retirement systems among colleges, the reader is referred to the following two publications:

Robbins, Rainard B. *Retirement Plans for College Faculties*. New York: Teachers Insurance and Annuity Association of America, 1934, 68 pp.
Teachers Insurance and Annuity Association of America. *Planning a Retirement System*. New York: Teachers Insurance and Annuity Association of America, 1934, 30 pp.

Before including higher institutions in a state-wide teacher retirement system.

residue goes to his estate or to any beneficiary that the member may designate.

Costs are estimated on the basis of data for the school year 1932-33. No attempt has been made to determine the source or sources from which the state should derive funds to finance a pension plan, although a general recommendation is made.

SOURCES OF DATA

The basic data for this study were procured directly from the teachers by means of an inquiry blank. The elements of retirement or pension plans and the principles embodied in the plan proposed were obtained from the recommendations of the National Education Association's committee on retirement allowance, the Carnegie Foundation for the Advancement of Teaching, Teachers Insurance and Annuity Association of America, and the National Industrial Conference Board, from the pension systems in force in the several states, and from those plans proposed for Colorado and Virginia by the Carnegie Foundation for Advancement of Teaching. The actuarial data were prepared by statisticians of one of the leading national life insurance companies.

it would be advisable to compare carefully the advantages to be had under a state system and those under the plan offered by the Teachers Insurance and Annuity Association of America. However, eventually, provision should be made whereby faculty members in higher institutions would have the same retirement benefits as are recommended for public school teachers.

This study does not go into the question of the social philosophy and economic principles underlying retirement systems. It is hypothecated upon the assumption that retirement systems are socially desirable and that they are destined to increase in number and scope. The authors are conscious that objections have been and will continue to be raised in opposition to the principle of retirement systems. Only recently a writer questioned the wisdom of building a deferred annuity, since fluctuations in the value of the dollar may tend to make the benefits at the time of retirement inadequate and out of line with what one would expect to receive on the basis of the conditions existing at the time the annuity was purchased. Although this objection has some merit, a somewhat similar, or equally unfavorable criticism, could be made against practically all types of investments. The purpose of a deferred annuity, in the words of the Teachers Annuity and Insurance Association, "is to establish a certainty—so far as a certainty can be established in a world of uncertainties—that there will be an income during old age." There is no reason to say that a person who is building security against economic need in old age by contributing toward a deferred annuity should not also attempt to build protection in some other manner, such as purchase of a home, or by investment in some class of securities which would tend to be relatively stable as to income.

PROCEDURE

The several steps in the prosecution of the study are indicated below.

1. *Collection of information.* Through the Division of Information and Statistics of the New Mexico Department of Education inquiry blanks were sent to all the certificated employees in the public schools of New Mexico. The information thus obtained was tabulated and used for making actuarial computations.

2. *Evaluation of the present plan.* The next step was evaluation of the retirement plan now in force in New Mexico in light of the principles discovered, as set forth in the immediately succeeding subsection. This part of the study was done with the assistance of Rainard B. Robbins, secretary and actuary for annuities of the Teachers Insurance and Annuity Association of America, and student of retirement systems.

3. *Establishing the plan.* Actuarial data, experience of state retirement plans conceded to be sound, principles, and findings of authorities were used as a basis for formulating a retirement plan for the public school system of New Mexico.⁵ The plan thus devised was formulated into model laws and then submitted to certain authorities on retirement systems for evaluation and criticisms, and finally to the technical experts of a national insurance company for computations as to costs to the state and the teachers, and the financial benefits that would accrue to the latter. Certain hypothetical situations were taken and the benefits ascertained in order to illustrate how the plan will function from the point of view of the teacher.

5. The method of deriving the basic principles is explained more fully in the next chapter.

CHAPTER II

BASIC PRINCIPLES OF AND METHODS OF FINANCING RETIREMENT SYSTEMS

INTRODUCTION

In this chapter are presented the recommendations of certain authorities as to the fundamental principles that a sound retirement plan should contain and the method of financing such a plan. The information in this chapter constitutes the basis for evaluating the present New Mexico plan and for the suggestions made to effect improvement therein.

PRINCIPLES AND A DISCUSSION THEREOF

The N. E. A. principles

In 1930 the National Education Association's committee on teachers' salaries, tenure, and pensions laid down fifteen principles as fundamental to any teacher retirement plan.¹ These include the eleven recommended in 1924.

1. *Membership Required of New Teachers; Optional for Those in Service*—Membership should be compulsory for teachers entering the service after the enactment of the retirement law; optional for teachers already in service.

2. *Guaranties to Both Teacher and Public*—Retirement ages and rules should be defined and administered so as to retain teachers during efficient service and provide for their retirement when old age or disability makes satisfactory service no longer possible. The retirement allowances

1. For some years the National Education Association has continuously studied teacher-pension systems. A committee on salaries, tenure, and pensions, appointed in 1911, made four reports, one of which was entitled, *State Pension Systems for Public School Teachers* (U. S. Bureau of Education. Bulletin 14. Washington: Government Printing Office, 1916, 46 pp.). A careful collection and study of all pension plans was made. In a report presented in 1924, entitled, *Teacher Retirement Allowances*, described more fully in the bibliography, eleven principles were presented. These were obtained by analyzing the pension systems then in operation. The fifteen principles set up in this chapter represent the latest recommendations of the committee.

should be sufficient to enable the retiring teacher to live in reasonable comfort, thereby removing the temptation to remain in the classroom beyond the period of efficient service.

3. *Cost Shared by Teachers and Public*—The sums deposited by the teacher and by the public during the period of service should be approximately equal.

4. *Amount of Deposits and Payments Stated*—The deposit by the teacher and the payment by the public should be stated by the organic act creating a retirement system, subject to adjustment in accordance with future actuarial investigation.

5. *Deposits of the Teacher and Payments by State Concurrent with Service*—The teacher's contribution and the state's payments to the retirement fund should be made regularly and concurrently during the teacher's period of service.

6. *Individual Accounts Kept*—The retirement board should open an account with each individual teacher. Sums deposited in that account by the teacher should be held in trust for that teacher.

7. *Retirement System on a Reserve Basis*—An adequate and actuarially sound reserve fund should be created to guarantee that the necessary money to pay the benefits promised will be on hand at the time of retirement.

8. *Periodic Actuarial Investigations*—Periodic actuarial investigations should be made of every retirement system to insure its financial soundness.

9. *Disability Provided for*—A retirement allowance should be provided for disabled teachers after a reasonable period of service.

10. *Teacher's Accumulated Deposits Returnable in Case of Withdrawal from Service or Death Prior to Retirement*—Teachers leaving the service before the regular retirement age should retain rights to all moneys accumulated in their accounts. Teachers' accumulated deposits should

be returnable upon withdrawal from teaching service, or death prior to retirement.

11. *Choice of Options Offered Upon Retirement*—The teacher should have the opportunity to elect the manner in which he will receive the benefits represented by the accumulated value of his deposits and the state's payments.

12. *Credit Should Be Allowed for Past Service*—Upon the adoption of a retirement plan, teachers should be given credit for their service prior to the establishment of the system. Funds for this purpose should be provided by the public.

13. *Rights Under Previous Retirement Systems Safeguarded*—The public should guarantee active teachers all the benefits which they had a reasonable right to expect under the old system. It should guarantee teachers retired under a previous system the allowance promised at the time of their retirement.

14. *Reciprocal Relations Between States*—Provisions should be made for co-operative or reciprocal relations between the retirement systems of the different states.

15. *Retirement Board in Control*—The administration of the retirement system should be in the hands of a retirement board whose make-up is carefully prescribed in the retirement law, and which represents both the public and the teacher.²

Evaluation and Discussion of the N. E. A. Principles

These fifteen principles are as a whole accepted by the various national organizations that study retirement systems. It seems to be the consensus of opinion that a plan, no matter how rudimentary it may be, should embody practically all of them in some form or another.

Henry S. Pritchett, president of the Carnegie Foundation for the Advancement of Teaching, in speaking of the 1934 set of principles says:

2. National Education Association. *Current Issues in Teacher Retirement*, pp. 226-29.

The results of a year's work on the part of the Pensions Committee of the Association are in part anticipated by the publication in June, 1924, of a provisional statement of principles, which is, by and large, one of the most promising pronouncements of recent years on the subject of teachers retirement in the public schools.³

He, as well as certain other authorities of the Carnegie Foundation for the Advancement of Teaching, endorses the four additional principles recommended in 1930.

The Industrial Conference Board agrees substantially with those principles in the list that are applicable to industry, with the exception that it is not favorable to the proposition of returning to the employee on withdrawal, after a certain period of service, the employer's contributions.

Insurance companies recognize all, or practically all, these principles, directly or indirectly, and in their plans make it possible to execute them. The insurance company which assisted in this study makes no provision for disability allowances in its standard plan.

The principles stated are more or less self-explanatory and need little comment. However, a few points should be brought to the reader's attention. A discussion of each principle may be found in the research bulletin from which they were taken.⁴

A careful analysis of the several principles has been made by Robbins. As a supplement to the comments made in this chapter, Robbins' evaluation is presented in Appendix A. His views have had considerable influence upon the authors' decision to vary from several of the principles laid down by the National Education Association.

That part of Principle 2 which says that the retirement allowance should be sufficient to enable the retiring teacher to live in reasonable comfort may need explanation. It is presumed that this statement is applicable to the teacher

3. "Pension Systems and Pension Legislation." *Nineteenth Annual Report of the President and of the Treasurer*, p. 141.

4. *Ibid.*, pp. 226-29.

who serves for twenty-five years or more. Certainly, it cannot refer to teachers who enter the service in later life and who are employed for a few years only, unless a special fund is created for the purpose. If the retirement system is to be sound no greater benefits can be offered to the teacher than can be purchased by the contributions to his credit. About all that can be done to guarantee this principle, except within narrow limits, is to estimate what the contributions of average individuals who give a working lifetime to teaching should be in order to make it possible for them to retire in comfort on reaching an advanced age, and then to let this rate determine what the retirement allowance will be on the basis of length of service and economic conditions of the times. Those who have taught only a few years will have to retire at a lower income and those who have had a particularly long period of service should be able to retire at a higher income.

Disability allowances is still a moot question; no highly satisfactory plan for guaranteeing such benefits has as yet been worked out. The idea underlying disability allowances is commendable, but until more evidence is available as to success in putting the idea into practice, there will be considerable doubt as to whether it should be incorporated into retirement plans. Some of the leading insurance companies have discontinued writing disability insurance or have put strict limitations on the policies. The Teachers Insurance and Annuity Association of America, a non-profit organization, does not, in its plan for college groups, include disability benefits.

When allowing pensions to disabled employees, as recommended in Principle 9, adequate safeguards must be carefully set up for executing this part of the plan. Experience has proven that the principle of allowing those disabled to retire on a pension is subject to much abuse. Provisions for disabilities may prove to be a serious weakness in a retirement plan. The fact that a period of service

of several years length is generally recommended as a necessary condition for disability allowances is recognition of the risk in providing disability benefits. In one of its bulletins the Carnegie Foundation for the Advancement of Teaching has this to say on the subject:

A retirement plan must recognize the principle that, inasmuch as the public has expended a considerable sum in the training of a teacher and the first years of a teacher's service are in the nature of an apprenticeship, a certain length of time must be fixed before a teacher, whether or not a member of the retirement system, should be eligible for disability benefits. Otherwise it is simply opening its books as a charitable institution at the taxpayers' expense.⁵

While there is some justification for requiring that no disability allowance be granted until the employee has been several years in the service, something may be said on the other side of the question also, as Robbins intimates in his comments. The period at the longest should be short, if the greatest social values are to be had from disability insurance or protection. Consideration of the state's investment in young teachers is a matter that should be cared for in the salary rather than through the retirement system. If the disability part of the retirement system is properly safeguarded and executed, it would seem that a period of time as a condition for eligibility would be unnecessary. In a state like New Mexico where health seekers are numerous it would be advisable, if not necessary, to limit disability benefits to those who could pass a first-class medical examination, or else to set more rigid health standards for admission to teaching. From the point of view of equity, if the retirement system provides disability benefits, such benefits should be in proportion to the members' contributions rather than uniform, as is common in self-insured plans.

5. Furst, Clyde, and Others. *Retiring Allowances for Officers and Teachers in Virginia Public Schools*, p. 35.

If the retirement system is underwritten by an insurance company, Principle 8 has little application, as no periodical actuarial investigation would be necessary. The insurance company would be responsible for the stability and soundness of the system.

Principle 10 is not clear in that it fails to state whether the employer's contribution may be withdrawn by the employee in case the latter retires before reaching the regular retirement age. Opinion is divided as to whether or not he should be permitted to do so. The National Industrial Conference Board presents these arguments in opposition to permitting him to withdraw any contribution except that which represents his own contributions: (1) It involves withdrawal from the pension fund of amounts set aside to provide pensions and applies them to an entirely different object; (2) It materially increases the cost of pensions; (3) By establishing withdrawal benefits as a bonus it encourages employees to leave the service, thereby defeating the fundamental concept of long service and increased plant efficiency.⁶ On the other hand, it is argued by some that too much emphasis is placed upon a fixed term of employment in order to qualify for the employer's contribution. This group contends that the portion contributed by the employer should come to the employee either in fractional shares on completion of a certain period of service or the entire amount should be made available after a relatively long period of employment. A research bulletin of the National Education Association, entitled, *Current Issues in Teacher Retirement*,⁷ says that such contributions should be considered as a savings account carried in the individual teacher's name until transferred and used to purchase an annuity when he or she reaches the age of retirement. The authors contend that the employer's contributions should at all times remain to the employee's account, and like the employee's

6. National Industrial Conference Board. *Op. Cit.*, pp. 24-25.

7. P. 228.

own contributions should not be withdrawable but should be used for the purpose of providing a retirement allowance. In reference to Principle 10, pertaining to withdrawal of accumulations to the teacher's account when he leaves the service or dies prior to retirement, the authors subscribe only partly to the committee's recommendations. In so far as refund of contributions when death occurs prior to retirement, they are in accord with the recommendation. But they are inclined to take Robbins' point of view on the return of contributions made by teachers, or made by the employer to the teacher's account. They believe that it would be better to use all contributions for providing retirement allowances and that no teacher should be allowed to withdraw any contribution credited to his account. To do otherwise tends to defeat the fundamental purpose of retirement systems and to have a detrimental effect upon public education by encouraging teachers to leave the service. This matter is discussed more fully in Appendix A.

How to care properly for employees who have taught many years prior to inauguration of a particular retirement plan, as is recommended in Principle 12, is a problem of considerable magnitude. If it is impractical to secure a subsidy or to raise a fund sufficient to take care of such services, some scale of contribution should be established that will aid in providing pensions that will insure such employees peace from financial worries and comforts in the days when they are no longer able to earn a livelihood. However, establishment of a retirement plan should not be deferred because past service cannot be adequately cared for. It would be better to forego this feature in the interest of future benefits than to have no retirement system.

Sometimes it is difficult to carry out Principle 13, that is, in a new plan to guarantee employees all the benefits which they had a right to expect under the plan being superseded. Fortunately, this principle is of little or no concern in this study, as few, if any, teachers have as yet elected, or

probably will elect, to participate in the New Mexico retirement plan inaugurated by the legislature at its 1933 session, and now in force. Certainly, no new system should be placed in a precarious financial position in order to shoulder the obligations of a system being superseded. The new system should guarantee nothing except that which could be purchased by the assets of the system taken over. Of course, effort should be made to have the employer live up to the obligations which were incurred under the old system.

To establish reciprocal relations among the retirement systems of the several states, as is recommended in Principle 14, may prove to be difficult. One state can do little or nothing without the co-operation of the other states concerned. In the states that follow a plan of self-insurance, conditions are generally such as to make it inadvisable, if not impossible, to transfer funds from one retirement system to another. Although as yet it is impractical to do so in those states or subdivisions thereof that might have their retirement plan underwritten by a national insurance company, comparable results can be brought about by offering each employee, on withdrawal from service, either of the following privileges: (1) a paid-up annuity equal to his total contribution, or (2) an individual pension plan at group rates. There is no reason why either of these privileges could not be made, with certain limitations and safeguards, to include the contributions of the employer. If each system were built upon the principle that no employee may withdraw any contributions, and that all contributions to his credit shall be used to purchase an annuity, the matter of transfer of credits would present no real problem.

FINANCING A RETIREMENT PLAN

Two methods of carrying the financial obligations of a retirement scheme have been developed from experience: (1) self-insurance and (2) underwriting by an insurance company. The former method is widely followed in practice among teacher groups; however, the latter is making

some headway among these same groups, and is fast becoming the course followed by industry. Both methods have points in their favor and are widely advocated. The advantage of each plan is discussed further on in this study.

It is almost universally accepted that a retirement system should be built upon the principle of joint contribution, that is, upon the principle that both the employer and employee should contribute toward its support. It seems reasonable that both should contribute about equally, although there is no reason to believe that in some circumstances other ratios would not be justifiable. The total contribution of the two parties should approximate ten per cent of the employee's salary. In the plans proposed for Virginia and Colorado the teacher is required to contribute or deposit five per cent of his salary, as is the state. A bulletin of the Carnegie Foundation for the Advancement of Teaching says this in regard to the principle of joint contribution and the amount that employer and employee should contribute:

The amount of the annual contribution must be considered in relation to the amount of the allowance that is to be paid. While, on the one hand, it is inequitable to permit members to contribute annually so small a sum that the annuity purchasable from their accumulations and the state's would be insufficient to sustain life, on the other, it would be unjust to require so large a contribution that its payment would become a burden. On the generally accepted principle that the retiring allowance should care for cases of disability and permit the recipient to live in reasonable comfort and should approximate one-half of the salary received at the time of retirement, it is possible to set aside annually a sum which at compound interest, on the basis of actuarial experience covering a sufficiently large number of individual cases, will normally provide such an allowance. This annual amount is about ten per cent of salary, which should be contributed in equal shares by the teacher and the state.

Other ratios have been devised, but all are open to some sort of objection, when the attempt is made to apply them to teachers. For instance, a scale in which the state's contributions range from, say, three per cent to six according to the age of the member when he joins the system presents at first glance an economy, which upon study turns out to be specious. The saving, if any, in cash, will be paid for by the forfeiture of certain privileges, perhaps of tenure, perhaps of some other sort, which may affect the flexibility of the system or even its soundness.⁸

Insurance companies that underwrite retirement systems collect a fixed percentage of the salaries of teachers, but certain ones rather than to use the exact salaries as a basis for calculating contributions, arrange, or prefer to arrange, all the salaries in step intervals and use the mid-points of the several steps. For example, all teachers receiving an annual salary of \$1,000 to \$1,500 would contribute on the basis of \$1,250. Although this procedure decreases the contribution of the lower half of the step and increases it for the upper half, it lends itself to simplicity of operation, without appreciably affecting the results.

The costs of a retirement system may be divided into two main divisions: (1) current year-by-year costs, and (2) the cost of accrued liability for service in past years. Four methods of providing funds to meet these costs have been devised: (1) annual appropriations; (2) setting aside a large initial fund; (3) setting aside a small initial fund and supplementing it by annual appropriations, and (4) actuarial funding.⁹ The first method will inevitably lead to disaster, as it has done in most of the earlier retirement systems. The second and third methods do not guarantee that the fund established will eventually meet the accrued liability. The fourth method is the only sound one, being

8. Furst, Clyde, and Others. *Retiring Allowances for Officers and Teachers in Virginia Public Schools*, p. 23.

9. National Industrial Conference Board. *Op. cit.*, pp. 35-36.

built upon mathematics, not magic, as any sound pension plan should be.

A pension system unless built upon an actuarial or reserve basis is likely to be insolvent at any time, and even though it may seem to be in a sound financial condition, in reality it may be moving gradually toward bankruptcy. The New York Stock Exchange pension committee in the following concise statement explains the importance of building upon such a basis :

A pension promise made today should be covered by financial provisions made today, rather than left as a responsibility for a future board. The system should be set up on a reserve basis in such a fashion that its assets may always equal its liabilities, and that if change or abandonment becomes necessary or desirable in future years, such change or abandonment may take place without the breach of any promise or the deposit of any additional funds.¹⁰

The late Ingalls Kimball, director of group annuities of the Metropolitan Life Insurance Company, says that actuarial funding has developed two sound schemes of calculating the maximum liability for pensions accrued up to any given time, namely: (1) the money purchase plan, and (2) a percentage of the average pay over the whole period of employment. In the former a fund is created, and added to annually, to be used with its accumulations to purchase annuities when the employee retires. Each pension is dependent upon the amount accumulated and the rates in force at the time the retirement age is reached. In the latter scheme the contributions are used at the close of each year to purchase annuities at the rates then in force. The total of these annual purchases from the time of enrollment to the retirement age determines the amount of the annuity or pension of each person.¹¹

10. Edwards, Gurden, "The Benefits to Employees of Sound Pension Plans," pp. 699-700.

11. "Industrial Pensions," pp. 33-39.

Adoption of the method of the percentage of the average pay over the whole period of employment seems to be quite generally used by insurance companies. The money purchase plan, seemingly, would be the most suitable for New Mexico if a self-insured retirement plan were adopted, since it eliminates much actuarial work and does not require periodic adjustment of rates.¹² ●

12. As to the merits of the money purchase plan the reader is referred to Robbins' discussion of Principle 7 in Appendix A.

CHAPTER III

EVALUATION OF THE NEW MEXICO RETIREMENT PLAN

INTRODUCTION

In this chapter the retirement plan adopted in 1933 by the Eleventh Legislature of New Mexico is evaluated.¹ As criteria for the evaluation the fifteen fundamental principles set forth in Chapter II and the opinions of certain students of retirement systems are used.

SUMMARY OF THE NEW MEXICO PLAN

The New Mexico retirement plan places control and management of the system in the hands of the state board of education. For the purpose of administration the board may spend as much as two per cent of the income for clerical assistance. The board has power to make such rules and regulations as may be necessary to execute the provisions of the retirement law.

Membership is open to teachers in: (1) city and county public schools, including independent and union high school districts; (2) tax supported colleges, universities, and normal schools; (3) asylum for the deaf and dumb; and (4) institute for the blind. No definition of the word teacher is given.

Contributions of teachers vary according to the salary. For each of the several salary levels the contributions are as follows: (1) \$0.50 a month for salaries below \$100 monthly; (2) \$1.00 a month for salaries of \$100 monthly; (3) \$1.50 a month for salaries of more than \$100 but not more than \$150 monthly; and (4) \$2.00 a month for all salaries in excess of \$150 monthly. The law is not clear as to the meaning of the term "monthly salary." It is presumed that twelve months rather than the length of the school term is

1. A copy of the law is shown in Appendix B.

used as a basis of computation. All contributions are to be credited to the New Mexico Teacher's Pension Fund and paid on or before December 31 of each year. On consent of the pension board payments may be made quarterly or semi-annually.

The state's contribution shall consist of five per cent of all inheritance taxes and such appropriations as the legislature may see fit to make. To these are added donations and gifts that interested persons may make to the fund.

In order to be eligible for a pension a teacher must have reached the age of sixty-five years and have taught school in New Mexico twenty-five years subsequent to January 1, 1934.² The retirement allowance is the same for all employees, irrespective of their contributions, being \$400 annually, paid in twelve monthly installments. After ten years of service in the public schools of New Mexico any teacher incapacitated for further service may retire with a disability allowance. The pension in such circumstances shall be the same proportion of \$400 as the number of years of service is of twenty-five.

At any time a teacher may withdraw his contributions, but in so doing he forfeits all rights to participate in the retirement plan. Since no mention is made as to whether or not he is entitled to interest on the money for the time it was deposited as a part of the pension fund, it is assumed that only the principal shall be refunded.

Membership in the New Mexico system is optional. Teachers in service in 1933 in order to qualify for the benefits of the retirement plan must enroll by January 1, 1934, by filing with the state board of education their age, teaching experience, and such other information as the board may desire. Otherwise, it would seem that they are no

2. Although it is believed that the period of service must have been in the public schools, one cannot be certain that such is true, as the law is not specific. It states that the teacher shall have taught school in New Mexico for twenty-five years. At another point the law states that the period of service necessary to make one eligible for a disability allowance must be in the public schools of New Mexico.

longer eligible to participate. Those employed thereafter are required to do likewise by January 1 of the year succeeding the date on which they were first employed. From the wording of the law it is reasonable to infer that unless new employees enroll within the time mentioned they are no longer eligible to enroll. If this interpretation is correct the retirement system will not have the full social advantages that it would if teachers might enroll at any time.

The state treasurer is designated as custodian of the pension system fund. It is his duty to invest the fund under the direction of the state board of finance. A bond is to be provided by him for the faithful performance of his duties, in such amount as the state board of finance may prescribe.

EVALUATION OF THE NEW MEXICO PLAN

Source of the plan

A few words as to the origin of the New Mexico plan might be of some help in the evaluation of its several provisions. In order to determine the source from which the framers of the law secured information as a basis on which to construct the plan, a careful search was made of the retirement laws enacted by the states lying west of the Mississippi River. Considerable evidence was found to indicate that the plan embodies the high spots of the California law,³ or of a plan closely resembling the California law. For instance, the type of board, teachers subject to the act, time of contributions, nature of the contributions of the state, the actuarial data required by the board, investments, responsibility for care of the fund, right of the state board of education to prescribe rules and regulations for executing the retirement system, and the disability benefits all conform to the California law. The provision stating that two per cent of the income may be used for clerical help also corresponds to a provision in the California law. Certain other provisions seem to have been taken from the Cali-

3. For the California plan see: California. State Superintendent of Public Instruction. *School Code of the State of California, 1931*, pp. 273-84.

fornia plan and altered to suit what the framers of the New Mexico plan thought necessary to meet local conditions. For instance, both plans prescribe a uniform pension allowance, but whereas California sets \$500 as the annual allowance, New Mexico sets \$400. California's plan requires thirty years of teaching experience, fifteen of which must have been in the state, and the last ten consecutive, in order for a teacher to be eligible for a pension. The New Mexico plan requires sixty-five years of age and twenty-five years of service, with no mention as to whether any of the years must be consecutive.

From indications, the most serious mistake that the creators of the New Mexico plan made was in modeling it after a system admitted by authorities to be fundamentally unsound. Although California is one of the leading states in education, it cannot be classed among the states having a sound retirement plan for public school teachers. Pritchett says that the California system has serious defects and that it is one of the worst plans extant.¹ Rather than to follow California, New Mexico should have selected as a model a state with a progressive retirement system. The framers of the New Mexico law might well have elected to profit by California's mistakes.

The plan in general

From the point of view of the educational profession, the most outstanding feature of the New Mexico plan is public recognition of the need of a retirement system for teachers. Unfortunately, the plan as a whole is so faulty basically, and disregards, in whole or in part, so many of the principles of a sound retirement system that its value is practically nil. Obviously, its growth will be slow since it will have little appeal to the teachers of the state. So far as could be learned, more than a year after the retirement system was established, no teacher had enrolled in it. The

1. "Pension Systems and Pension Legislation." *Sixteenth Annual Report of the President and of the Treasurer*, pp. 115-17.

brevity and indefiniteness of the plan are such that many legal contests will likely result as a consequence thereof. A mantle of doubt will hang over the plan until many of its provisions are clarified by the courts or amended by the legislature. It is extremely doubtful if money will be available to meet the pensions when they come due.⁵ In all, one might say that the legislature made such a "good job of a bad job" that it is probable that many of the complications that could arise if the system were attractive enough to lure some teachers will be avoided.

Actuarial basis

The chief weakness of the New Mexico plan is that it is not built upon an actuarial basis. Harold F. Brigham says that state-administered plans are usually accompanied by two serious weaknesses, namely:

(1) They are almost without exception unsound actuarially, and (2) they are always, to a greater or less extent at once the offspring, the passing love, and innocent victim of politics."

Rather than to base the system upon scientific procedure, framers of the New Mexico law chose to copy certain arbitrary provisions that are fundamentally unsound.

In the New Mexico plan provisions are made for collection of certain actuarial data, including ages and teaching experience. The law seems to have been written with a hazy realization that such information might at some time be needed. They are essential to a sound pension system and should be secured and used as a basis for estimating costs and calculating risks, especially if the system assures certain benefits determined beforehand. As the plan is now written little use can be made of these data except to ascertain when the teacher will have qualified for a pension.

5. For a general criticism of the New Mexico plan the reader is referred to a letter in Appendix C from Rainard B. Robbins.

6. "Pensions for Librarians," p. 271.

Administration

While it is generally conceded that there should be a board at the head of the retirement system for teachers,⁷ the tendency is away from placing the state board of education in control.⁸ Only four of twenty-three states which in 1930 had pension systems state-wide in scope provided for control by the state board of education or its counterpart.⁹

The retirement board should be appointed specifically for the purpose of overseeing the retirement system, and should be composed of members that represent both the public and the teacher,¹⁰ or of non-partisan members well qualified to oversee the system. Since the New Mexico state board of education is composed of seven members, among whom must be the governor and the state superintendent of public instruction as *ex officio* members, the head of a state educational institution, a county school superintendent, and one other person engaged in educational work, it may be contended that the present board represents the interests mentioned. On the other hand, it should be noted that practically the entire board is selected by the governor, a representative of the people, and that the teachers have no part in the selection.

It is difficult to understand why the fixing of the bond of the treasurer is assigned to a board which is not directly related to or responsible for the administration of the retirement system. Dual control is undesirable, and, as a rule, detrimental. It may be contended by some that the state board of finance should be responsible for investing all state funds. However, money in the retirement fund should be considered as belonging to, or for the benefit of, the teachers, and should, therefore, be under the supervision of the retirement board.¹¹

7. Industrial Conference Board. *Op. Cit.*, p. 25.

8. National Education Association. *Current Issues in Teacher Retirement*, pp. 223-277.

9. *Ibid.*

10. *Ibid.*

11. Prosser, Charles A. *The Teacher and Old Age*, p. 77.

Membership

The plan includes all teachers in the public schools and the various state educational institutions, including the higher institutions. New Mexico should be commended for extending the retirement plan to include such a wide range of persons engaged in educational work, although some may doubt the advisability of making the system so broad in scope at the outset.

The New Mexico system is entirely optional. Membership should be optional only for those in service at the time the plan is inaugurated. All others should be required to become members.

If teachers must join the system within a certain time, or become ineligible, as seems to be the intent of the law, the purpose of the retirement system is defeated to some extent. The teachers should be encouraged to join, if the greatest social benefits are to be derived.

The opinion of specialists is to the effect that no service period should be required as a prerequisite to enrolling in a retirement plan. In order to avoid transients, however, some do not favor making enrollment compulsory until the employee has been in service two years.

Retirement age

The retirement age set by New Mexico, sixty-five, is the customary minimum age set in retirement plans. It would have been better to have prescribed a minimum retirement age, with efficient employees privileged to continue in service for not more than five years longer by one year extensions under close supervision on the part of the retirement board. No one should be permitted to continue in service, however, after a certain age, as seventy. It should be possible for employees to retire earlier when conditions warrant, at an adjusted retirement allowance.

FINANCES AND BENEFITS

Self-insurance

It was probably unwise for New Mexico to establish at this time a retirement plan embracing self-insurance, especially since membership was not made compulsory, as the number of employees is too small, and likely will continue to be for years to come, to serve as a foundation upon which to build a sound self-insured retirement system. That teachers do not have confidence in the plan is evidenced by the fact that they have not elected to enroll in it. The Carnegie Foundation seems to favor the self-insurance plan for public school teachers, even for the smaller states—at least, in its literature little evidence was found to indicate that it did not favor self-insurance. The National Industrial Conference Board is of the opposite point of view. The following arguments have been offered against a small retirement system, one of less than ten thousand members, attempting to carry its own risk and making its own investments, especially if disability benefits or some other type of insurance is involved: (1) It has an insufficient number enrolled to obtain the average life expectancy required for annuity rates; (2) It cannot guarantee the retirement rates; (3) It cannot guarantee the safety of the principal sum, a minimum return on the principal, and a maximum charge for overhead; (4) It is doubtful if it can guarantee the highest yield on investments, consistent with safety, because of a lack of experts; and (5) It is not likely to appeal to the members as a safe, reliable plan.¹² In addition, one might say that a small system cannot be administered economically. One must admit, however, that a state is not exactly comparable to industrial organizations. The former is already engaged to some extent in investing funds and doing many of the things that an insurance company does.

Contributions

The scheme of contribution provided in the New Mexico plan violates a number of principles to a greater or lesser

12. Folsom, M. B. "Old Age on the Balance Sheet," pp. 399-406.

degree. Particularly is it weak in that it does not assure a reserve fund that will provide the annuitant on retirement the benefits to which the law says he shall be entitled. The contributions, other than those of the teacher, are indefinite, and from all indications, greatly inadequate. Robbins says: "The contributions are entirely insufficient to create a fund for payment of substantial benefits."¹³ He goes on to say:

There is probably nothing more important in devising a retirement plan than to relate contributions and benefits in such a way that there is practically no question but that the contributions are sufficient to furnish the benefits and so that there will be as little danger as possible that the plan will not be carried out as intended.¹⁴

Evidently, the framers of the New Mexico retirement law had no knowledge as to what the state's share of the cost of the system would be, not even a crude estimate. An insurance company estimates that in 1932-33 the contribution of the state in order to match five per cent and three per cent of the teachers' salaries and sufficient to produce an adequate pension should have been about \$150,000 and \$90,000, respectively, for the teachers covered by this study. That the amount to be deposited by the teachers under the New Mexico plan is inadequate is plainly evident, especially if the system is to be financed by joint, equal contributions. Instead of contributing at least three per cent, and preferably five per cent, they contribute less than two per cent. No legislative appropriations were made for the biennium 1932-34. Of course, until someone enrolls, no appropriation is necessary. Some might even contend that no appropriation would be necessary until money is actually needed for expenses or payment of retirement allowances. Five per cent of the inheritance taxes would yield about \$804 a year.

13. See Appendix C.

14. *Ibid.*

This estimate is based upon the average income from this source over the last fourteen years.

The necessity of setting aside an adequate reserve fund each year in order to meet pension liability is so great that it is difficult to understand why the New Mexico law fails to require that such be done.¹⁵ The plan as devised and enacted by the legislature would create a debt that would increase from year to year, if the teachers should choose to enroll. The magnitude of the debt would depend upon the number who participate in the plan and the length of time that the law continues to operate. It could become, eventually, a very heavy burden upon the taxpayers of the state.

The law should stipulate a definite contribution to be made by the state concurrently with the teachers' contributions, and provide a stable income, to begin with the inauguration of the plan, to meet such contribution. The total contribution of the two parties participating should be sufficient to meet all liability, with sufficient margin or reserve over estimates to care for unpredictable expenses. Preferably, the income should be a prior lien on certain taxes or on a particular fund. There is no objection to an appropriation, provided the law makes it certain and adequate, and, so far as possible, beyond the whim of each legislature. Inheritance taxes alone are not a desirable source from which the state should obtain revenue to meet its contributions to the retirement fund, since the income is uncertain and inadequate. Legislative appropriations and gifts, like inheritance taxes, are likely to be inadequate as well as uncertain in amount. The fact that the New Mexico plan makes no definite provision to set aside a sum sufficient to meet its part of the obligation leads one to believe that the framers of the law intended to pass the financial obligation on to future generations, or merely to pass an ineffective law for political reasons.

15. Industrial Conference Board. *Op. cit.*, p. 35.

The New Mexico plan is weak in so far as investment of the reserve fund is concerned. Instead of merely requiring that the fund shall be invested as the state board of finance may direct, certain limitations should be specified. In particular, the retirement board should have power to approve or disapprove all investments. The New Mexico plan by failing to place limitations on the types of investments makes it possible to use the fund to purchase certain classes of securities, such as highway debentures, without proper investigation and consideration. No attempt is made to assure diversification of investments nor to restrain officials from using the fund for political advantages. The Virginia plan sets forth certain limits that should be observed in investing the fund of the retirement system:

The investment of the accumulating funds is a matter of the utmost importance. They should be promptly invested in the best securities, and yet with a latitude that will result in diversity and safety. Obligations of the United States, of the separate states, and, with certain restrictions, of the component parts of states, are suitable for such purposes. Bonds of railroad companies, public utilities, municipalities, and industrial establishments should be scrutinized with a view first to security and then to diversity. Dates of maturity and perhaps of interest are important considerations, especially during the early days of the system. First mortgages upon improved real estate, subject to suitable restrictions, may present an opportunity to increase the income of the funds, but dealing in them may invite pressure to grant loans upon property of constituents that would not otherwise appear favorable security and requires the installation of a system of checks upon valuation and other factors which may make it inadvisable to invest in them during the earlier years of the retirement system.¹⁶

16. Furst, Clyde, and Others. *Op. Cit.*, pp. 26-27.

The system devised by the legislature states that two per cent of the income may be used for clerical help. It is doubtful if a pension system is able to support an overhead expense of this amount, except one firmly established and with a large membership—that is, unless the state makes a special appropriation to care for such expenses. Whether or not this is the maximum that might be used for administration, including traveling expenses, services of lawyers, and so forth, is not clear. Certainly, no system can operate efficiently without money available for legal, actuarial, medical, and various other services.

Benefits

A pension of \$400 annually would hardly be adequate nowadays for many teachers. A uniform pension of such a meager amount is likely to defeat several of the principal objects of a retirement system, especially economy of operation of schools and maintenance of good morale among older workers.

It was pointed out in Chapter II that the amount of the pension should be determined by arithmetic, not by magic. The New Mexico plan arbitrarily sets \$400 as the annuity purchasable by all teachers, irrespective of whether their deposits are large or small. Instead of a uniform allowance, the amount of the pension for each teacher should be equal to what the total contributions to his account have or will purchase. The rate of contribution recommended elsewhere in this study would under present-day conditions provide a pension equal to approximately one-half the employee's average annual salary, provided he enrolled in the retirement system at the age of twenty-five. Since the salary is unpredictable with any appreciable degree of accuracy, to specify the exact amount of the pension beforehand is a serious error. It is not reasonable to expect a teacher who is receiving a salary higher than the average¹⁷ to retire

17. About \$1100 to \$1200 is the average salary of all professional employees of the New Mexico public schools, and about \$1000 for teachers.

on an allowance of \$400 until forced to do so, even though he may have reached the point where he is no longer efficient.

Certainly, it is hazardous for the retirement system to provide for disability allowances without making an extensive study of the subject. Insurance companies are reluctant to accept disability insurance, and few will do so, and only under rigid safeguards. One company says that it will no longer write disability insurance because the rates which it must charge would be prohibitive for most teachers or systems. The disability benefits stipulated in the New Mexico plan are hardly adequate, although, they are high in light of the contributions made. They can never be as much as \$33.33 a month, the maximum amount of the monthly retirement allowance under the present New Mexico system, as they must always be a fractional part of this amount. Thirty dollars a month is a minimum wage, and barely adequate to meet living expenses. Undoubtedly, a lesser figure is much too small to care for general expenses, especially such as usually accompany physical disabilities. The New Mexico law says nothing about the effect that disability benefits shall have upon a pension later granted on the basis of age retirement.

The right of the teacher to withdraw his contributions before reaching the retirement age is in accord with practice and the recommendations of many authorities, including the National Education Association pension committee. This principle is challenged in this study, however, and is not made a part of the model plan or laws. It is questionable whether a teacher should be allowed to withdraw his contributions while he is in service, as evidently he may do under the New Mexico system. Although withdrawals are permitted, the New Mexico law fails to state whether the teacher is entitled to interest for the time his money was on deposit. That the contributions should be returned with interest is a widely accepted recommendation. No mention is

made as to withdrawal of any contributions made by the state. It is reasonable to assume that the teacher is not entitled to any part of the state's contribution, unless he or she receives it in the form of a disability or retirement allowance.

The New Mexico system errs in not providing that on the death of a member his contributions may be withdrawn by a beneficiary. Pritchett considers this to be a glaring defect. In speaking of the Idaho pension system, which system has a similar clause, he says:

As no provision is made for the refund of contributions in cases of withdrawal or death, the contributions virtually represent compulsory taxation, and under the inadequate financial basis of the system taxation for benefits that will be enjoyed by but a few of the teachers who are near the age of retirement.¹⁸

The age at which benefits normally become payable, sixty-five, is in conformity with the recommendations of specialists. Requiring ten years of service as a condition of eligibility for a disability allowance is also in accord with the recommendation of some authorities, although it is attacked by some students of retirement plans. That a shorter period is likely to result in an undue burden on the members as a whole is the contention of those who favor the ten-year service period. Others incline either toward a shorter preliminary period, as three to five years, or no period.

THE NEW MEXICO PLAN FROM THE TEACHERS' POINT OF VIEW

The New Mexico plan seems to have been written mainly with the younger teachers in mind. Failure to consider properly the interest of the teachers now employed, especially of the older employees, is one of its most objectionable weaknesses. Since no person enrolling in the plan will be

18. Pritchett, Henry S. "Teacher's Pensions," *Seventeenth Annual Report of the President and of the Treasurer*, p. 135.

eligible for a pension unless he teaches twenty-five years subsequent to January 1, 1934, an individual who has passed the age of forty-five has only a remote chance of ever becoming eligible for a pension on retirement. No provision is made for services rendered prior to inauguration of the plan, nor is the employee given an option as to benefits in case he withdraws before becoming eligible for a pension. Unless he serves until he is eligible for a pension, he is entitled to nothing except a refund of his deposits. An exception is made in case one incurs a disability after ten years of service. And add to these disadvantages the possibility that the teacher's equity will be lost should he die before reaching the age of retirement, and the prospects become even more discouraging. To the older employees, in brief, the plan offers little except an opportunity to deposit their money with the state, probably without interest, to be returned to them when they leave the service, provided it has not already been dissipated.

For the younger employees, especially those in the lower salary brackets, the plan offers the possibility of a large return on their investment if they are able to continue in service until they become eligible for a pension. However, should many teachers enroll in the plan, it is highly probable that the system will be insolvent by the time the teachers become eligible for a pension, unless the state or some individual provides a generous subsidy to meet the accrued liability. Someone will have to play the part of Santa Claus if the plan is to succeed financially, as the pension benefits, although meager for some classes of employees, are clearly out of line with the contributions or premiums for others, that is, the retirement allowances are too large in proportion to the contributions made by the teachers, if the principle of joint, equal contribution is accepted as a criterion. As a business proposition, the plan might well be classed with or likened to other schemes which promise something for little or nothing.

For the good of education, the interests of the state, and the welfare of a large majority of the teachers, probably it would be well that the plan be permitted to expire through failure of anyone to enroll in it. Robbins implies this in his letter. However, it has been the experience of many states that widespread enrollment in an unsound pension plan will have the effect of quickly forcing the plan to insolvency and thereby force the state, through a desire to protect itself, to establish a sound system or to reform the one extant.

CONCLUSIONS

The present retirement plan for New Mexico public school employees is so weak that rather than attempt to amend it little by little, a new plan should be adopted. The function of the next chapter will be to propose a plan to supersede the one now in force.

CHAPTER IV

A PROPOSED TEACHER RETIREMENT PLAN FOR NEW MEXICO

INTRODUCTION

In this chapter are set forth the basic principles of a teacher retirement plan which the authors believe would be suitable for New Mexico. The plan is based upon the principles contained in Chapter II and the recommendations of leading students of retirement systems, so far as they are applicable to conditions in New Mexico.

THE PLAN PROPOSED FOR NEW MEXICO

It is recommended that the plan devised for New Mexico, as presented in the paragraphs that follow, be underwritten by a financially sound national insurance company. Such an arrangement would guarantee the building of the system upon an actuarial basis and would afford the highest degree of security for its proper execution.¹ This recommendation is a departure from the usual practice of state teacher groups, as it is customary for each system to carry its own plan. It is neither contrary to the recommendations of students of retirement systems nor to precedent, however. Many city school systems, universities and colleges, and industrial organizations have underwritten-systems. Any system with a membership so small that the law of averages can hardly be depended upon to give reliable predictions should not undertake to carry a pension plan but

1. No comparison of benefits under a self-insurance plan and a plan underwritten by an insurance company could be found. A comparison of retirement allowances under self-insurance, as computed by the Carnegie Foundation for Advancement of Teaching, in the plans proposed for Virginia and Colorado, with retirement allowances granted by insurance companies indicates that the former tend to be slightly higher than the latter. Such an advantage, however, in favor of self-insured-systems is likely offset by the greater stability and security afforded by systems underwritten by insurance companies.

should place the risk with an insurance company." Even large business organizations show a decided trend toward having their pension plans underwritten by insurance companies.² If at a later date conditions in New Mexico should warrant a plan of self-insurance, a change could be made without any great sacrifice or loss. But until more expertness is demanded in government, and party politics becomes less a factor in state affairs, it would be advisable to have the pension plan carried by an insurance company.

However, some arguments may be offered in favor of a plan of self-insurance. For example, considerable opposition might develop against establishment of a retirement system operated for profit to individuals or a private corporation, especially when the system is supported in part by public money. Moreover, some difficulty might be experienced in getting a sound national insurance company to underwrite a plan such as outlined herein, although no such difficulty is anticipated. There is evidence to indicate that the experience of insurance companies with retirement systems financed by governmental branches has not been favorable, and some companies do not solicit, possibly would not accept, such class of business. Self-insurance of a teacher retirement system, even for New Mexico, is practical under the proper kind of retirement law, especially if membership is made compulsory and the plan is kept free from political domination. In Chapter VIII, an act embracing the feature of self-insurance, as well as one involving the principle of carriage or coverage by an insurance company, is given.

A second recommendation is to place control in the hands of a board of five members, appointed by the governor

2. There seems to be no consensus of opinion as to how large a system should be in order safely to attempt to carry its own risk. The National Industrial Conference Board recommends ten thousand as a minimum. Four thousand is enough, say two authorities in letters to the authors, in a plan such as proposed herein. The number probably varies with the nature of the plan, especially in so far as the element of chance is involved.

3. Folsom, M. B. "Old Age on the Balance Sheet," pp. 405-6.

of New Mexico from a list of recommendations made by the executive committee of the New Mexico Educational Association. Each member would be appointed for a period of five years, the terms overlapping in such a manner that one new member would take office each year. Members should not be removed by the governor except for specified causes, established on proper hearing.

A board of this type would be preferable to one comprised in part of members selected by the teachers to represent their interests and in part of members appointed to represent the public. Under such an arrangement the members might tend to be partisan to the extent that the general interests of the retirement system would be sacrificed.

Some writers on retirement legislation recommend that several *ex officio* members be on the retirement board, as the state treasurer, the attorney general, the commissioner of insurance and banking, and the state superintendent of public instruction. Owing to the fact that state public officers in New Mexico are selected for a term of two years, and may succeed themselves only once in succession, it would be unwise to make them members of the retirement board. Certain appointive officers or employees, as the superintendent of insurance, could be placed, *ex officio*, on the board, but such an arrangement would not assure continuity nor well-qualified members on the board, as such officers or employees are not necessarily expert in their field and are usually closely affiliated with partisan politics. The tenure is short, and the offices or positions are vacated with each change in the political complexion of the state administration. Should there be as many as three members of the *ex officio* type, a majority of the members of the board would assume office every two years, and, consequently, continuity of policy would be lacking and inexperienced and political boards would be in control of the retirement system.

Some objection might be raised to having the governor make the appointments, since at present there is a tendency

for appointees of the governor to resign with each change of administration. Furthermore, the highest court of the state has ruled that the governor may remove any of his appointees by merely asserting that such removal is for cause, without actually establishing grounds for removal. This ruling tends to make the tenure of his appointees short and insecure, and probably discourages many capable persons from accepting appointments. However, with the governor being limited to making appointments from a list of recommendations made by the executive committee of the New Mexico Educational Association, it is probable that an experienced retirement board would be assured. As a gesture at least, the proposed law stipulates that no member of the board may be removed except for incompetency, malfeasance, or misfeasance in office.

Cost of clerical help should be appropriated or set aside by the legislature, and should be in addition to the regular five per cent contribution made by the state. No administrative expenses should be taken from the retirement fund, at least until after the system has become well established, or a contingent fund has accumulated, and preferably not until after the system has grown to the point where it enrolls as many employees as do some of the larger ones, for example those with ten thousand or more members. In a system underwritten by an insurance company the expense of administering the retirement system would be small, as the insurance company would perform most of this service.

For the present, membership in the retirement system might well be limited to certificated public school teachers, principals, supervisors, school nurses, librarians, county school superintendents, city school superintendents, and assistant school superintendents in tax-supported state public schools below the college level. Except as a matter of expediency there is no reason why the plan should not embrace all persons which the state employs for educational work,

4. Furst, Clyde, and Others. *Op. Cit.*, p. 19.

unless some employees are otherwise afforded retirement benefits. If the system is limited in membership at the outset, as suggested, at a later date it would be advisable to include other state employees engaged in educational work, as those teaching in the several state institutions. The advisability of including employees of the higher educational institutions is discussed in footnote 4 of Chapter I. Membership should be elective for those now in service. However, unless within one year from the establishment of the plan those who had been in service for two years or more declare in writing their intention not to join, they should be compelled to participate. In order to insure the success of the plan, and especially to protect public school employees against financial difficulties resulting from old age, it is desirable that all those entering the service of the public schools after the plan has been inaugurated be compelled to join. Incidentally, all those in service should be strongly urged to join. The plan should, in other words, require all new teachers to enroll after they have had two years service in the public schools of the state. They should be allowed to participate earlier if they chose to do so. The National Industrial Conference Board says that it is unwise to compel employees to take out membership until after two years of service. A two-year period of service eliminates casual and short-term employees, and, consequently, much costly bookkeeping.⁵

Five per cent of the annual salary should be set as the teacher's contribution. The computations should be made on the basis of actual salaries or the salaries arranged in step intervals, preferably on the basis of the former. If the latter plan is followed, a scale with step intervals of \$500, ranging from \$1 to \$4,000 or more could be employed. The percentage mentioned would then be taken of \$500, \$750, \$1,250, \$1,750, and so on up to \$4,000. It will be apparent that these amounts are the midpoints of the several

5. *Op. cit.*, p. 23.

intervals, except the first and last, which are the top and bottom of the first and last step. The monthly contribution for any particular step interval would be the quotient, probably to the nearest whole dollar, obtained by taking five per cent of the midpoint of that interval and dividing by twelve. The contribution of the state should match that of the teacher, dollar for dollar, irrespective of the method employed for computing the annual contribution. Four thousand dollars is taken as the upper salary limit, as it is believed that this is sufficiently high to assure protection to the highest paid employees, without devoting an undue amount to the cause of old-age benefits.

The plan does not provide for any disability benefits. Until sound national insurance companies are as a whole willing to accept disability insurance risks, it would be unwise for New Mexico to include such a feature in its retirement plan, especially since so many health seekers migrate to the state, many of whom eventually engage in teaching. With the provision that a member of the retirement system may retire at any time on the approval of the retirement board, on an annuity adjusted in accordance with the length of service, incapacitated teachers would not be without some relief. The annuity payments would begin at any time, and for those who had been members of the retirement system for a number of years, teachers whom the state would owe the greatest obligation, the income would be substantial. If at a later date the evidence should warrant inclusion of disability benefits, this feature could readily be added to the plan. Incidentally, at some later date it might be advisable to grant a substantial death benefit, even in the early years of membership, for the protection of teachers' dependents.

On retirement each member should be permitted to have the benefits purchased with his contribution paid in one of the following three ways: (1) a simple life annuity, that is an annuity payable to the member during his life, with no residue to anyone; (2) a joint annuity continuing

during the life of the member, followed by an annuity during the life of a designated beneficiary; or (3) a refunding annuity or a guaranteed annuity, that is, an annuity for the life of the member, with any residue from his contributions, with interest, going to a beneficiary or to his estate. Under option (2) the pension income of the annuitant would depend not only upon the amounts contributed by him under the schedule of contribution for his salary class, but also on the sex and age of the joint annuitant. The manner of paying benefits, as mentioned in this paragraph, are based upon recommendations contained in the plans proposed for Virginia⁶ and Colorado,⁷ as well as on the principles cited.

A retirement plan, to be most effective socially, should not require a definite number of years of service as a qualification for a retirement allowance. It should prescribe, however, a minimum age for retirement and an age at which the employee must, as a rule, retire. Accordingly, the plan recommended for New Mexico states no minimum service period; it stipulates sixty-five years for both males and females as a minimum retirement age, with retirement compulsory at the age of seventy. Employees may retire earlier, at an adjusted retirement allowance, on permission from the retirement board, on such allowance as contributions to their credit will purchase or provide. Two reasons may be advanced to justify prescribing a minimum age: (1) the actuary must establish a minimum age as a basis of computation; and (2) in the administration of the plan it is necessary to require the employee to attain a minimum age before he may retire without special permission.⁸ The selection of sixty-five years as the minimum age is somewhat arbitrary. But in defense of it one might say that a younger age would not permit, so conveniently at least, the accumulation of funds sufficient to insure the teacher a retire-

6. Furst, Clyde, and Others. *Op. Cit.*, pp. 3-56.

7. Savage, Howard, J., and Cogswell, Edmund S. *A Retirement Plan for Colorado Public Schools*, pp. 3-58.

8. National Industrial Conference Board. *Op. Cit.*, p. 20.

ment allowance adequate to meet his needs; and a younger age would force many to retire at a time when they are still efficient employees.

Although it would be desirable to have a subsidy to meet all past services, such is hardly feasible in New Mexico at this time. For this reason it is recommended that past services be cared for by a plan of amortization to extend over a period of years, that is, each employee with service to his credit would be privileged to contribute a certain amount of his current salary in addition to his regular contribution. The state would match such contributions.

A teacher who withdraws from service before reaching the retirement age should be entitled to a paid up annuity with all contributions to his credit.

If a member of the retirement system dies before reaching the retirement age all contributions to his account, with interest, compounded annually, shall be paid to his beneficiary or heirs in a lump sum of not to exceed \$500, and the balance in a number of equal payments, or the entire amount in a number of equal payments.

A certificate of participation should be issued to each employee when he enrolls in the retirement system. The insurance company underwriting the plan should be privileged to adjust the rates at such times as may be agreed upon with the board. Such rates, of course, should not be retroactive, nor should they in any way affect benefits already purchased or received.

An employee may transfer his account to another retirement system, provided that system is satisfactory to the board. However, no transfer should be permitted that would make it possible for an employee to withdraw his contributions, or otherwise to dissipate the reserve that he has created toward retirement.

FINANCING THE PLAN

No definite study of ways of financing the retirement plan has been made in this investigation. A widely accepted principle is to have a source of revenue that is definite and sufficient in amount to meet annually the state's obligation. A general recommendation is to obtain the revenue from a source that is related to the retirement system, that is, related to the purpose for which the revenue is to be used. The authors doubt the advisability of creating a special fund, but believe it would be advisable to support the retirement system from one of the most substantial and certain or definite state school funds. The obligation should be considered in the same light as that of salaries of teachers. They suggest that quarterly a part of the income from the business tax, or from some comparable definite source, earmarked for education, sufficient to pay the state's contribution to the system, be paid to the retirement system. In fact, the law might well be made to stipulate that the state's obligation shall constitute a prior lien on a source of revenue such as that mentioned. Unless the law provides definitely for financial support, the system will become involved in partisan politics and dependent for its existence upon legislative lobbying. Incidentally, no retirement plan is likely to thrive under constant legislative tampering. Sound state systems have been undermined and headed toward insolvency through unwise legislative amendments to the retirement law.

It is of great importance to have the state make its contribution concurrently with the annual contributions of the teachers. Otherwise, there is danger that the state will default in its payments.

CHAPTER V

COST AND OPERATION OF THE PROPOSED NEW MEXICO TEACHERS RETIREMENT PLAN

INTRODUCTION

In this chapter are set forth estimates, based on computations made by actuaries of one of the leading national insurance companies, of the cost of a pension plan built upon the principles prescribed in the preceding chapter. Various ways of increasing and decreasing the costs of the plan are discussed, with the consequent effect upon the plan. Finally, retirement income rates are presented, along with a number of hypothetical cases showing how a model plan embracing progressive features will operate as far as benefits to the employees are concerned.

ACTUARIAL DATA

Early in the school year 1932-33, through the State Department of Education, a questionnaire form was mailed to superintendents of all county, municipal, independent rural, and union high school systems of New Mexico for distribution among the teachers. The superintendents were asked to have each teacher list certain factual data necessary for calculating the costs of the retirement plan and the financial benefits that would in certain circumstances accrue to the teacher.

Usable replies were received from 2,749 teachers. A total of 908 teachers in the New Mexico school system did not answer.¹ Replies were received from every county sys-

1. This number represents the difference between 3,657 teachers reported by the State Department of Education to be employed in the various school systems of New Mexico (*New Mexico Common Schools Annual Financial and Statistical Report of the State Superintendent of Public Instruction for the School and Fiscal Year 1932-1933*, p. 1) and the 2,479 teachers who replied to the questionnaire form. The number reported as employed is considerably greater than the number actually employed, since it is based upon data taken from the school budgets rather than on a true record of those employed.

tem, thirty-one in number. One county, with 158 teachers employed, sent in one reply only. The other counties returned complete or fairly complete returns. Of the municipal, independent, and union high school systems, only one, employing approximately forty teachers, did not make any returns. Another, with twenty-five teachers employed, sent only one reply. The other systems, sixty-five in number, sent in complete or nearly complete returns. The sampling is fairly representative of the teachers who would enroll in the pension plan proposed for New Mexico were it adopted. Nothing was found that would indicate that the replies tend to be selective.

ANALYSIS OF COSTS TO THE STATE

The total annual salary of the 2,749 teachers represented by the data was \$2,917,239. To be safe in the calculations the estimates were based on a total salary of \$3,000,000. The yearly cost to the state computed on a five per cent contribution would be \$150,000. If the state's contribution was three per cent, the cost would be \$90,000. Were all the public school teachers employed in the state in 1932-33 enrolled the cost to the state would be \$185,058 on the basis of a five per cent contribution, or \$111,035 on the basis of a three per cent contribution.²

In these calculations no allowance has been made for past services. The best manner of providing for such service is by means of a lump sum set aside for the purpose. However, since it would be a real burden to appropriate such a large amount in any one year, amortization would be advisable. Under such a scheme each teacher would be privileged to pay annually a certain percentage of his current salary, to be matched by the state, to provide a pension for past services. The insurance company, allowing a suffi-

2. These latter costs are based on the total salaries, \$3,701,164, paid to teachers of the New Mexico public schools in 1932-33. It is assumed that the actuarial data on the 2,749 teachers are representative of all teachers employed in the state school system in the year mentioned.

cient margin of safety, has estimated that it would cost \$60,000 a year, or two per cent of the current payroll for twenty years, to meet the full cost of liability for past service. The state's share of the cost, based on the principle of joint equal contribution would be \$30,000 annually.

Neither do the costs presented in a preceding paragraph take into consideration pensions for those disabled in service. The insurance company co-operating in this study does not include disability insurance in its plan, contending that it necessitates contribution rates so high as to make such a provision undesirable. If from a practical point of view, inclusion of the disability clause makes the rates too high, as the insurance company contends, an alternative would be for the state and the teachers jointly to set aside annually or biennially enough money to meet the cost of allowances granted those totally and permanently disabled. To do so would involve certain hazards, no doubt, and the disability part of the system would need to be carefully executed.

Data as to costs for disability pensions are meager. The evidence available indicates that disability costs are approximately one-tenth of age-retirement costs. Indiana estimates that at the peak not more than twenty to twenty-five teachers for each thousand enrolled, and probably fewer, would at any one time be drawing a pension allowance for disability. The estimate is higher than the actual number that most states would probably pension, as Indiana allows benefits for temporary disability lasting for more than one-half of a school term.³ Estimating that over a period of years the average number of teachers who would be entitled to a pension for disability would be ten for each one thousand enrolled, and arbitrarily taking the average annual pension to be \$500, or one-half the average salary over the period of service, the cost would be \$5,000 for each thousand

3. Carnegie Foundation for the Advancement of Teaching. "Pension Systems and Pension Legislation." *Twentieth Annual Report of the President and of the Treasurer*, p. 143.

teachers enrolled. On this basis the cost to the state in 1932-33 for disability allowances would have ranged between \$14,000 and \$18,000, according to whether 2,749 teachers, a minimum estimate, or 3,657 teachers, a maximum estimate, enrolled. The state's share on the equal-contribution basis would be \$7,000 to \$9,000. By appropriating one-tenth of the ten per cent of each employee's salary, set aside for purchasing annuities, the total cost of the retirement system could be reduced, but in doing so it would be necessary to reduce the retirement allowances.

About \$5,000 to \$8,000 annually would be necessary for administration of the plan. This expense should be borne by the state until the system becomes larger and stronger, at least until it gets well established.

If simple life annuities were purchased with the state's contribution the cost to the state to match the employee's contribution could be gradually decreased to approximately sixty per cent of the amounts mentioned in a preceding paragraph, provided the state were given the advantage of the lower rates. If the state's contributions are to be considered as deferred salary payments, as many consider them to be, any saving resulting from purchasing simple annuities should not go to the state but should accrue to the retirement system as a whole, unless salaries are adjusted accordingly. In the model acts no reduction in cost accrues to the state from the purchase of simple annuities. If the state's contribution is less than that of the employee, the principle of joint, equal contribution would be violated.

Obviously, the cost of the retirement system could be decreased by lowering the rate of contribution. The several authorities consulted in this study are agreed, however, that pension contributions should range between six and ten per cent of the pay roll. It is advisable for New Mexico to adopt the upper limit, since a lesser rate would hardly produce adequate pensions under the present low salary level, even for those accustomed to a frugal living standard.

It would be possible to lower the contribution rate by increasing the minimum age of retirement, without decreasing the retirement allowance. But in so doing one of the chief advantages that should be gained from a pension plan would be lost, in part at least. That is, many employees would continue to teach after the period when their efficiency had been seriously decreased.

Costs can be decreased by not paying interest on contributions to those who withdraw from the pension system; or non-payment of interest would make it possible to grant larger annuities to retiring employees. Not to allow interest is contrary, however, to one of the principles set forth in Chapter II. Authorities contend that when an employee withdraws, not only should his contributions be returned, but that he should be paid interest at the prevailing rate for the time that the money was held in trust. The right to withdraw contributions is not advocated by the Teachers Insurance and Annuity Association, and, as previously stated, neither are the authors of this study favorable to cash withdrawals, with or without interest.

Finally, a decrease in the costs could be brought about by placing a limitation on the awards for past services, that is, by allowing credit for only a portion of such services. To follow this course, however, it would be necessary to run contrary in part to one of the principles set forth in Chapter II. The cost could be lowered by allowing a smaller rate of contribution for each year of past service than is allowed for current service. Such a plan is recommended in this study.

COSTS AND BENEFITS TO TEACHERS⁴*Costs to Teachers*

In Table I are shown the monthly contributions of employees on the various salary levels, based on three and five

TABLE I
MONTHLY CONTRIBUTIONS OF EMPLOYEES ON VARIOUS
SALARY LEVELS UNDER A RETIREMENT PLAN SUCH
AS THAT PROPOSED FOR NEW MEXICO

Annual salaries arranged in steps	Mid- point of step	Schedule I Monthly contribution (five per cent of monthly salary) *	Schedule II Monthly contribution (three per cent of monthly salary) *
\$ 500 or less	\$	\$ 2.00	\$ 2.00
501-\$1,000	750	3.00	2.00
1,001- 1,500	1,250	5.00	3.00
1,501- 2,000	1,750	7.00	4.00
2,001- 2,500	2,250	9.00	5.00
2,501- 3,000	2,750	11.00	6.50
3,001- 3,500	3,250	13.00	8.00
3,501- 4,000	3,750	9.00	15.00
4,001 or more		17.00	10.00

* The monthly contribution is equal to the product of the midpoint of the step by the percentage rate of contribution divided by 12. The top of the first step and approximately the bottom of the last step, rather than the midpoints of these steps, are used in calculating the monthly contributions. A teacher's contribution cannot be less than \$2.00 a month.

per cent rates. The state duplicates the employees' contributions. Schedule I, the five per cent rate, is recommended for adoption as a part of the New Mexico plan. On this schedule the monthly payments range from \$2.00 to \$17.00, or from \$24.00 annually to \$204.00 annually. On the three per cent schedule the monthly payments range from \$2.00 to \$10.00 and the annual payments from \$24.00 to \$120.00.

4. The data presented in this section are approximations, and would vary with the details of the pension plan finally adopted and with variations in insurance rates from time to time. Since the computations for this study were made the insurance company co-operating has revised its rates and made some changes in the terms of its plan. The data, however, are accurate enough for practical purposes, and furnish dependable estimates of what the costs and benefits would be.

The highest contribution is on the salary step \$4,000 and up. Probably, in New Mexico, at least in the earlier years of the retirement system, it would be inadvisable to permit anyone to draw a pension on an average annual salary of more than \$4,000. In other words, roughly speaking, no pension could exceed one-half of \$4,000, or \$2,000 annually, and a pension of this amount would be possible only if the period of service was thirty years or more.

Annual Pensions

In Table II are presented certain data which make it possible to calculate the teacher's annual pension allowance

TABLE II
APPROXIMATE ANNUAL RETIREMENT INCOME, UNDER A
PLAN SUCH AS THAT PROPOSED FOR NEW MEXICO,
FOR EACH DOLLAR OF MONTHLY PREMIUM PAID
BY TEACHERS ENROLLING AT VARIOUS AGES*

Age of joining plan (1)	Approximate retirement income for each dollar of monthly premium	
	Male (2)	Female (3)
25	\$68.00	\$63.00
30	53.00	50.00
35	41.00	39.00
40	31.00	29.00
45	23.00	21.00
50	15.00	14.00

* To obtain the annual retirement income payable for life from the age of sixty-five multiply the monthly premium by the appropriate number in either column (2) or (3).

in various circumstances. With the aid of the data in the table it is a relatively easy matter to calculate the income which a teacher would receive under a retirement plan resembling the one proposed for New Mexico. The pension payable for life from the age of sixty-five is equal to the retirement income rate presented in this table multiplied by the number of dollars contributed monthly by the employee

and the state. In the paragraphs that follow are three examples illustrating the method of calculating the annual pension.

Case I. A female teacher who enrolls in the pension plan at twenty-five years of age, and who earns an average salary of \$1,300 from the age of twenty-five to sixty-five will contribute \$5 a month, or \$60 a year, and will on retirement be entitled to a pension of \$650 a year. Under the joint-contribution plan the state would, of course, pay a proportional amount of the monthly premium, preferably one-half, or \$5. The amount of the pension is obtained by multiplying \$63 by 10. The latter, as previously stated, is the monthly contribution if the rate is approximately ten per cent of the annual salary. The former is read directly from Table II. It is the number in line one of column (3).

Case II. A female teacher who enrolls in the pension plan at thirty years of age, who earns an average salary of \$1,600 from the age of thirty to sixty-five, and who in conjunction with the state, contributes at the rate of 10 per cent of her salary, or \$14 a month, will on retirement receive a pension of \$700 a year. Multiplying \$50 by 14 gives the annual pension. The former is read directly from Table II, being the number in line two of column (3).

Case III. A male teacher who enrolls in the pension plan at thirty-five years of age, who earns an average salary of \$2,200 from the age of thirty-five to sixty-five, and whose total pension contribution is 10 per cent of his salary, \$18 a month for teacher and state, or \$9 a month each, will on retirement be entitled to a pension of \$738 a year. This amount is obtained by multiplying \$41 by 18. As will be evident from the directions given in Case I and Case II the \$41 is obtained from Table II, being the number in line three of column (2), and the 18 is the monthly contribution in dollars.

TOTAL COSTS TO THE STATE

The total costs to the state for a teacher retirement system, constructed in accordance with the most advanced principles, enrolling approximately three-fourths of the teachers in the public elementary and secondary schools, would be about \$200,000 annually for the first few years, or slightly less than $5\frac{1}{2}$ per cent of the total annual salary of the professional employees of the public schools. Over a period of twenty years the total outlay could be decreased to about \$110,000, or to about 3 per cent of the aggregate of the salaries, by making certain restrictions and limiting the benefits. If all the teachers in service enrolled immediately on inauguration of the plan, a contingency that would hardly happen, the initial annual costs to the state would approximate \$240,000, or about 7 per cent of the total amount spent for salaries.

The foregoing costs could be decreased at the outset by not allowing any credit for past service, or by eliminating disability allowance, or lowering the rate of contribution from 5 to 3 per cent of the annual salary. None of these changes, except elimination of disability benefits is recommended, however, except as a matter of necessity.

Over a long period of time the pension system should not cost the state more than $5\frac{1}{2}$ to 6 per cent of the total amount paid for teachers' salaries, even though every employee enrolled and the system were built upon the principles set forth in this report. More specifically, the cost would range between $5\frac{1}{2}$ to 6 per cent of the annual salary of all public school teachers enrolled in the retirement system. It would probably be much less for the initial years, as many teachers would not enroll.⁵

5. If one sets the total contribution at a certain percentage of the employee's salary, and teacher and state contribute equally, it is a matter of simple arithmetic to determine what the cost of the retirement system would be both to the teacher and to the state. This is true whether the plan is self-insured or underwritten by an insurance company.

CHAPTER VI

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

SUMMARY OF CONCLUSIONS

On the basis of the data and the generalizations in this study the following conclusions have been drawn.

I. A state retirement plan for teachers or school employees should provide, according to the best practices and the recommendations of certain individuals or groups of individuals who have made extensive studies of retirement systems, that: (1) membership should be compulsory for those who enter the service after the retirement system has been adopted, and optional for all others; (2) the annual retirement allowance should be adequate to support the employee, in reasonable comfort, provided he has been in the service as much as twenty-five years, and be such that the public will be protected against continuation in service of any elderly person who is no longer efficient; (3) the retirement system should be supported by the employer and the employee, each to contribute approximately one-half of the costs; (4) the amount of the contribution of the employee and the state should be stipulated in the organic act creating the system; (5) contributions should be made regularly and concurrently by both parties; (6) individual accounts should be kept in each member's name by the retirement system; (7) an adequate actuarially sound reserve fund to meet all liabilities should be established; (8) rates of contribution should be adjusted on the basis of actuarial computations at regular intervals; (9) pension allowances should be granted to those disabled in service and who have been in service for a specified number of years; however, as a practical matter, it would seem justifiable that this principle not be incorporated in the retirement plan until more evidence is available as to how best to execute it; (10) all

equities to the employee's account shall be paid to his heirs or estate at his death; notwithstanding the fact that it is generally recommended that contributions made by the employee or made in his behalf should be returned, with interest, to him when he leaves the service, a contrary view is held in this study; (11) certain choices shall be allowed the employee as to the method of receiving the retirement allowance; (12) provision should be made whereby those in service when the retirement plan is adopted shall be able to accumulate pension benefits for past service; (13) if the plan supersedes another plan, the employee should be given advantage of the rights and benefits that have accrued to him under the plan superseded in so far as justice and conditions warrant; (14) provisions for co-operative or reciprocal relations among retirement systems should be made; (15) control and management of the retirement system should be centered in a retirement board composed of members representing the interests of the employer and employee, or a strictly non-partisan board, preferably the latter.

II. The retirement plan adopted in 1933 for all teachers in the public schools and state educational institutions of New Mexico is basically weak, failing to include many of the principles of a sound retirement plan. In particular, it is not built upon an actuarial basis, and, consequently, it does not provide a reserve fund sufficient to care for liabilities that have or will have accrued. The retirement allowance is inadequate, and is uniform rather than graduated in proportion to the contribution made by the teacher. No provision has been made for past service; in fact, little advantage is offered to older employees by the system. No assurance is offered that the state will make its contributions regularly nor in an amount sufficient to meet its obligation. Some of the strong points in the plan, appraised in the light of the principles laid down by the National Education Association, are joint contribution, disability allowance,

and return of deposits to the teacher when he leaves the service of the state educational system. These provisions, however, are not made in such a way that they fully comply with the principles recommended by the organization to which reference is made.

III. In the chapter which follows are presented two retirement laws, one built upon the principle of having the system underwritten by an insurance company and one on self-insurance, one of which laws the authors believe should be enacted to replace the present law. The laws are built in accordance with the conclusions and recommendations in this chapter so far as they are applicable to conditions in New Mexico. Neither law is an amendment to the present law, but each is practically a new law.

IV. A retirement plan for 2,749 certificated employees of the New Mexico public common schools who supplied data for actuarial computations, and embodying substantially the principles which the best evidence indicates should characterize a state retirement system, would cost the state \$150,000 annually. This figure is based upon a contribution equal to approximately ten per cent of the employee's annual salary, half to be borne by the employer and half by the employees. Monthly contributions by the teachers range from \$2 to \$17. If simple life annuities instead of refunding annuities were purchased with the state's contribution, the cost to the state could be gradually reduced forty per cent. The saving should be passed on, however, to the retirement system and not to the state. To care properly for past services, \$60,000, or \$30,000 as the state's share, additional would be needed annually for approximately twenty years, thus bringing the state's annual contribution up to \$180,000 for full refunding annuities or to \$120,000 for providing refunding annuities with the contributions made by the employees and simple life annuities with the contributions made by the state. Costs to the state for disability insurance would be about \$14,000. In all, the total cost would

be less than \$200,000, or about $5\frac{1}{2}$ per cent of the total annual salary of professional employees of the public schools.

If every professional employee in the common schools in 1932-33 enrolled in the retirement system proposed for New Mexico the cost to the state would total in the neighborhood of \$185,000 annually, without any allowance for past services or disability insurance. The cost would be about \$240,000, or approximately seven per cent of the total amount paid for salaries of public school teachers, if allowances for past services and disability benefits were included. This amount could be decreased forty per cent in accordance with the change outlined in the paragraph immediately preceding. These costs are maximum, and would probably be much less, especially since many teachers would not enroll.

V. The retirement allowance for each teacher or employee under the new plan would be approximately one-half of his average annual salary, provided he enrolled at about the age of twenty-five. For example, a female teacher who enrolled in the retirement system at the age of twenty-five and who received an average annual salary of \$1,300 would at the age of sixty-five receive an annual pension of \$630. If she were thirty-five years of age when she started to contribute and her average annual salary was \$1,600, she would receive at the age of sixty-five a pension of \$546 annually, or somewhat less than half of her average annual salary.

In the model plan recommended herein, on withdrawal from service the employee would not be entitled to receive all contributions to his credit, plus compound interest, as is commonly done. Instead, he would be entitled to a paid-up annuity equivalent to that purchasable by the contributions made by him up to the time he left the service. No special provisions for disability benefits are made. However, on becoming disabled an employee could retire on an annuity adjusted in accordance with the length of his service.

GENERAL RECOMMENDATIONS

The authors are skeptical of the present New Mexico retirement plan and doubt the advisability of enrolling in it. An individual annuity policy purchased from a reliable insurance company would probably be preferable to enrolling in the present state retirement system, especially so far as the older employees are concerned. The New Mexico plan is so weak that it should be repealed and a new plan instituted, modeled after the one proposed in this study. With much agitation for unemployment insurance and old-age insurance, any effort to develop and secure a sound retirement plan for public school employees would be in conformity with the trends. A meritorious plan should be adopted before any, or many teachers, enroll in the present retirement system, or before the state financially obligates itself to any great extent.

It would seem judicious to have the plan underwritten by an insurance company, at least for the present, rather than to have it self-insured. A self-insurance plan, however, established as a result of a sound retirement law, would be feasible. A definite source of revenue should be provided and the plan should be so constructed that its execution would be entrusted to competent administrators, free to act independently of partisan political forces.

Although the retirement system should eventually include all professional employees in the state educational system, for the present it would be wise or expedient to confine it to the certificated employees of the state elementary and secondary schools. As soon as financial conditions warrant, the system should be expanded to include all professional employees in state educational institutions, and probably janitors, clerks, and other permanent employees of the state educational system.

CHAPTER VII

THE PROPOSED LAWS

INTRODUCTION

In this the final chapter of the study is presented a model retirement plan for public school teachers, expressed in the form of laws. The plan is built upon the findings of this study and is adapted specifically to conditions in New Mexico. The authors attempted to make the plan as forward looking as they could, particularly from a social point of view, without making it impractical. No reason obtains to believe that it would not, basically, be suitable for any state. So far as could be learned, the plan is equal to, if not better, than the plan in effect in any of our states.

For the present it seems advisable that the system be underwritten by a strong national insurance or annuity company. However, a self-insured system would also be practicable, if properly established and administered. If membership in the system were made compulsory, as it should be, within a few years it would contain upward of four thousand members. As previously mentioned, two authorities contend that a system of this size can carry its own risk under a plan such as proposed herein. Accordingly, two acts are presented in the pages that follow, one based upon the principle of placing the risk with an insurance or annuity company and one based upon self-insurance. The second act is slightly broader than the first, including employees of the state educational institutions, as well as those of the public schools.

I. PROPOSED RETIREMENT LAW FOR NEW MEXICO, INVOLVING UNDERWRITING BY AN INSURANCE COMPANY¹

NEW MEXICO EDUCATIONAL RETIREMENT SYSTEM

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A RETIREMENT SYSTEM FOR PROFESSIONAL EMPLOYEES OF THE PUBLIC SCHOOLS SUPPORTED BY THE STATE OF NEW MEXICO OR ANY POLITICAL SUBDIVISION THEREOF; CREATING FUNDS FOR SUCH PURPOSE; AND PROVIDING FOR THE ADMINISTRATION OF THE SYSTEM ESTABLISHED BY THIS ACT.

Be It Enacted by the Legislature of the State of New Mexico:

Section 1. **Establishing an educational retirement system.** The "New Mexico Educational Retirement System," hereinafter called the retirement system, is hereby established, to become effective on July first, nineteen hundred thirty , for the purpose of providing retirement allowances and other benefits for the professional employees of the educational system of the State of New Mexico, subject to the terms of this act.

Section 2. **Definitions.** The following words and phrases as used in this act shall have the meanings set forth in the immediately succeeding paragraphs, unless different meanings are plainly evident from the context:

(1) "Public schools" shall mean any school comprising kindergarten and grades one to twelve inclusive, or any part thereof, supported wholly or in part by public funds and under the control and supervision of the New Mexico state department of education, or any school comprising kindergarten and grades one to twelve inclusive, or any part thereof, conducted as a training school in conjunction with one of the state educational institutions.

1. The proposed law has been evaluated by the home offices of several large national insurance companies, and conforms closely to the standard plan of each. Possibly, some of the details set forth in the law would have to be modified, or could be omitted, in order to have the system underwritten by certain insurance companies, as some variation occurs among the several plans now offered. However, there is reason to believe that a plan such as proposed here would be acceptable to insurance companies, especially if the system established gave promise of being conducted on a business basis and freed from politics. The purpose in writing the law was to formulate one in accord with the best thought and not to make it conform specifically to the plans offered by insurance companies. Some of the provisions in the plans of insurance companies seem to have been included more with an eye toward business than in accordance with principles such as set forth in this study.

(2) "Professional employee" shall mean any superintendent, principal, supervisor, teacher, librarian, or nurse employed as a principal occupation to instruct or control pupils or students, or to administer, direct, organize, or supervise any educational activity in the public schools. The term "employee" as used in this act shall mean "professional employee," unless otherwise defined where used.

(3) "Employer" shall mean the state or any division thereof authorized to employ and have oversight of the professional employees who come within the scope of this act.

(4) "School year" shall mean the twelve months from and including the first day of July of any year to and including the thirtieth day of June next succeeding.

(5) "A year of experience" means employment for the full time which the employer conducted school during a school year, with such exceptions as the retirement board may make.

(6) "Annuity" shall mean a series of yearly payments made in an agreed amount and manner.

(7) "Annual salary" shall mean the actual total amount received for the school year irrespective of the amount stipulated in or as a part of the salary contract, unless the retirement board shall specify otherwise.

(8) "Interest" shall mean interest at such annual rate as the retirement board shall determine or specify, compounded annually. Interest periods shall begin and end on such uniform dates as the retirement board may stipulate.

Section 3. Membership in the retirement system. The following shall be eligible for membership in the retirement system under the conditions herein stipulated:

(1) All professional employees in the service of the public schools in New Mexico at the time that the retirement system is inaugurated and who shall signify in writing to the retirement board their intention to become members thereof. However, unless within one year from the date of inauguration of the retirement system those employees who are in service at the time the system is inaugurated shall declare their intention not to become members, membership shall become compulsory on such employees. Any professional employee in service when the system is inaugurated, and who is eligible for enrollment, who does not enroll within one year of the date on which the system is inaugurated and declares his intention not to enroll, may enroll on July 1 of any year succeeding, provided he declares his intention to enroll by written notice to the retirement board prior to the date on which he desires his membership

to begin. No employee may build at state expense an annuity for any past service rendered during the time the retirement system was in operation.

(2) All employees hired after the inauguration of the retirement system shall not later than the beginning of the third year of service in the public schools of New Mexico enroll in the retirement system by giving written notice to the retirement board. They may elect to enroll sooner.

Section 4. Certificates of membership. The retirement board shall issue to every member of the retirement system a certificate of membership, which certificate shall state the date of enrollment and give such other information as the retirement board may deem advisable, and to all intents and purposes such certificate shall be of the nature of a contract between the individual member and the retirement system.

Section 5. Employer's statement to retirement board. On or before September thirtieth in each year the employer shall mail to the retirement board a statement as to all professional employees hired for the ensuing school year, and give such information as the retirement board may require for the identification of such employees. Any employee hired thereafter, during the particular school year, shall be reported to the retirement board within thirty days after the date on which employment actually begins.

Section 6. Information to be furnished retirement board by employees. Upon receiving notice of the employment of a professional employee for the first time, the retirement board shall immediately mail to the employee, or have distributed through local school officials, a blank calling for such actuarial and other information as the board may at any time require for the identification of the employee and for the determination of his status in the retirement system, which blank properly completed shall be returned promptly to the board.

Section 7. Reports to be furnished by local boards. Every employer shall furnish to the retirement board such reports or information as the latter may require, and the state superintendent of public instruction, county school superintendents, superintendents of municipal and other independent school districts and of union high schools, principals, teachers, and other employees of the state educational system shall aid and co-operate with the local boards in furnishing or obtaining such reports or information.

Section 8. Retirement system board and manner of selecting the members thereof. The administration of the retirement system shall be vested in a board to be known as the New Mexico Educational Retirement System Board, herein called the retirement board, or the board, consisting of five members, appointed by the governor of the State of New Mexico from a list of recommendations made by the executive committee of the New Mexico Educational Association.

Section 9. Term of office of board members. The term of office of each member of the retirement board shall be five years, and the terms shall be so arranged that one new member shall take office on March first of each year. Provided that for the initial terms of office the board members shall be appointed for the following terms: one for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years.

Section 10. Filling of vacancies on board. Vacancies in the retirement board shall be filled in the same manner as the regular members are selected.

Section 11. Removal of board members. Members of the New Mexico Educational Retirement System Board may be removed by the governor of the State of New Mexico, but only after notice of the charges and an opportunity for public hearing, and after showing cause, based upon incompetency, or malfeasance, or misfeasance in office.

Section 12. Compensation of board members. The members of the retirement system board shall serve without compensation, but they shall be reimbursed for all necessary expenses which they may incur through service on the board.

Section 13. Powers and duties of the retirement board. (a) *In general.* The retirement board shall be responsible for the control and management of the retirement system, and shall perform such duties as are required for the execution of the provisions of this act. The board shall have power to make such rules or by-laws, not inconsistent with the provisions of this act, as are necessary to carry this act into effect, and such regulations and by-laws shall have the force of law. No rule or regulation which shall affect a member's status or rights in the retirement system shall be retroactive on such member unless he shall give, by a written statement to the board, his assent to such rule or regulation, except as otherwise provided in this act. The board shall have power to interpret the provisions of this act, and its interpretations shall constitute the true meaning of the law, unless set aside

by a court of competent jurisdiction or changed by legislative enactment. The board shall make decisions on all controversies and all matters pertaining to the retirement system, and its decisions shall be final on all such matters in so far as the constitution and statutes of New Mexico permit. It shall be responsible for preparation of the biennial budget to be submitted to the legislature, and it shall make such other recommendations to the legislature for legislative enactments as are necessary for the successful operation of the retirement system. All matters not specifically covered by this act shall be acted upon and handled in accordance with the by-laws and actions of the retirement board.

(b) *To underwrite the system.* The retirement board shall cause the retirement system to be underwritten by a national insurance company or companies under such terms as it may prescribe, consistent with this act, and shall meet the costs incurred thereby by payments from the funds herein created.

(c) *Employment of assistants.* The board shall employ full-time or part-time, a secretary, whose duty it shall be to keep a record of all its proceedings and perform such other duties as the board may require. The said secretary shall be under the control of the retirement board and shall be responsible to it for performance of the duties of said position. The board may employ such clerical, legal, actuarial, and medical assistance, and any other type of assistance, as may be necessary for the successful operation of the retirement system. Provided that the retirement board may arrange to have the secretarial work performed in conjunction with some department or branch of the state government, such work to be performed under the direction and control of the retirement board.

(d) *Delegation of powers.* The retirement board may delegate to subordinates such ministerial powers and duties as are within the scope of its authority, but by delegating any power or duty it shall not relieve itself of responsibility for such powers or duties, nor for the successful execution of the provisions of this act.

(e) *Make reports.* The retirement board shall submit annually to the governor and the state board of education a detailed statement of the membership, retirements, withdrawals, incomes, investments, expenditures, and amounts on hand of, or pertaining to, the retirement system. Biennially the retirement board shall submit a similar statement or report to the state legislature, which statement or report shall be printed for general distribution.

Section 14. Treasurer of retirement system. (a) *State treasurer as ex officio treasurer.* The state treasurer shall be *ex officio* treasurer

of the state retirement system, and shall give an additional bond in such amount and with such corporate sureties as shall be required and approved by the retirement board, the cost of which bond shall be borne by the state.

(b) *Reports.* On or before the first day of August of each year the state treasurer shall file with the secretary of the retirement board a sworn report or statement of the financial condition of the retirement system and its financial transactions for the year just closed. Such report or statement shall be in the form prescribed by the retirement board.

Section 15. **Retirement system funds.** (a) *The several funds.* The funds of the retirement system shall consist of an expense fund and an annuity fund.

(1) The expense fund shall consist of such amounts as the legislature shall appropriate from year to year on estimates submitted by the retirement board, exclusive of contributions to the annuity fund, and such other contributions and residues as may be made thereto or which revert to such fund in accordance with the terms of this act. Said funds shall be used to defray the expenses of the administration of this act.

(2) The annuity fund shall consist of contributions made by the professional employees of the retirement system and the contributions made by the state, and such other amounts as may be contributed or transferred thereto in accordance with this act.

(b) *Deposit and investment of funds.* The said funds shall be deposited with the state treasurer and shall be used only for the purposes and in the manner stipulated herein.

Section 16. **Contributions.** (a) *By employees.* Each professional employee shall pay into the annuity retirement fund, in the manner later provided, five per cent of his annual salary, or approximately five per cent of his salary in accordance with a salary schedule arranged in step intervals as prescribed by the retirement board. Provided that no employee's compulsory contribution shall be less than \$24 annually nor in excess of approximately \$200 annually.

Any employee in the service of the New Mexico public schools at the time the retirement plan is inaugurated may contribute in regular payments or in a lump sum one per cent of his current salary for the number of years corresponding to the number of years of past service in New Mexico public schools, and the state shall match such contributions for past service, the total contributions to be placed to the credit of the member concerned.

(b) *By the state.* The state shall match each employee's regular contribution to the annuity fund, and such contribution on the part of the state shall be credited to the employee's account for providing annuities as set forth in this act. The state's contributions shall be made quarterly by the state treasurer, on receipt of a warrant issued by the state auditor, based upon a statement from the retirement board as to the amount due. The state's contributions shall be paid from the State School ----- Fund, and shall constitute a prior lien on said fund.

Section 17. **Collection of contributions.**^{*} Every county, municipal, independent rural, and union high school board shall deduct and withhold from the compensation of each professional employee enrolled in the retirement system, on each pay roll after the taking effect of this act, such percentage of his salary or such amount as the retirement board shall designate, not to exceed in the aggregate five per cent, or approximately five per cent, of the annual salary. Any person or officer whose duty it is to prepare the pay roll for the payment of employees within the scope of this act shall indicate on each pay roll the entire monthly salary of each employee, the amount to be paid each employee, and the amount, if any, to be deducted for the contribution to the annuity fund, and shall indicate on the pay roll the total deduction made on behalf of the retirement system.

Whenever any deduction has been made from the salary or wages of any member of the retirement system, the employer shall within ten days of the date of making the deduction send to the secretary of the retirement board a copy of the pay roll in the form approved by the retirement board with a remittance payable to the order of the treasurer of the State of New Mexico for all deductions made in conformity with this act.

Section 18. **Employers' duties as to deduction from salaries.** Every employer shall be responsible for the payment to the retirement board of the contributions to be made by all professional employees enrolled in the retirement system and in the service of such employer. No employer shall, without the consent of the member

2. Some question has been raised as to whether or not the proposed law should specify in detail as to methods of collecting information, keeping of accounts, collecting contributions, etc. The authors believe that it would be beneficial to include as many details as are contained in the proposed law. Unless they were included, and vigorous effort were made by some official body, there is danger that the retirement system would not succeed as it should. A state retirement system for teachers, at least in a state as sparsely populated as New Mexico, would be much more difficult to administer, it would seem, than a system for a city school district or for an industrial organization, especially when membership is compulsory and the principle of joint contribution is involved.

concerned, withhold or deduct from any member's compensation on any pay roll any amount in excess of the required deduction for the period covered by such pay roll.

Section 19. Salary less deductions shall be complete payment. Notwithstanding any other law, rule or regulation to the contrary, payment of the regular salary, or compensation to members of the retirement system, less the required deduction herein provided for, shall be full and complete discharge of all claims for service rendered by such members during the period covered by such payments.

Section 20. Keeping of individual accounts. The contributions made by the members of the retirement system, or those made by the state in their behalf, to the annuity fund hereinbefore created shall be credited as made to such members severally in individual accounts up to the time of retirement. Such accounts shall be so kept that at any or at all times the status of each member of the retirement system may be known.

Said accounts shall be open to members of the retirement system, and each member shall be informed of his status in the retirement system as often and in such manner as the retirement board shall designate, but each member shall be entitled to a statement of his account at least once annually. The amount to the credit of the account of each member of the retirement system shall be used only in the manner stipulated in this act.

Section 21. Age retirement benefits. Any member of the retirement system who shall have reached the age of sixty-five, or at any time thereafter, and who shall have retired from active service in the public schools of New Mexico, shall receive an annuity in such amount as all contributions to his account, with interest accumulations, shall provide, payable in any one of the following three ways, at his option, and in such manner as the retirement board may stipulate.

(1) An annuity payable during the life of the member with no residue at death.³

(2) An annuity payable to the member during his life followed by an annuity payable to a beneficiary during the life of the beneficiary.

3. At least one large insurance company is definitely opposed to this form of an annuity on account of the misunderstanding and opposition which it causes on the part of relatives of the annuitant. However, such an annuity would seem to be desirable from the point of view of many teachers, especially those with no immediate dependents. Perhaps, some of the objections could be overcome by more careful administration of the provision or option.

(3) A guaranteed return annuity providing that any portion of the deposits or contributions with interest accumulations to the credit of the member's account up to the time of retirement that has not been paid in the form of an annuity to the member before his death shall be paid by continuing the annuity payments to a beneficiary or to the member's estate until the sum of all payments total or equal the amount to the credit of the member.

Section 22. Retirement ages. Any member of the retirement system, male or female, may continue in service in the public schools to the age of sixty-five years, but no member may continue in the service of said schools after the age of sixty-five except with special permission from the retirement board. Such permission shall be for one-year periods on the recommendation of the employer. The retirement board may compel any professional employee who has attained the age of sixty-five to retire at any time, even though it had previously granted the employee privilege to continue in service; or it may grant to members, for cause, privilege to retire before the age of sixty-five on a retirement allowance in such amount as the total contributions to their credit will provide, adjusted in accordance with the age at which the retirement allowance shall begin, such privilege to continue at the discretion of the board. No one may continue in service who has reached the age of seventy years except to complete a year of service commenced before reaching the age of seventy years.

Section 23. Benefits and privileges on withdrawal. (a) *Method of paying benefits.* Any member of the retirement system withdrawing from the service of the public schools before becoming eligible to retirement shall be entitled to receive a paid-up annuity of any of the types described in Section 21 in such amount as all contributions to his account, including those made by the state, with interest accumulations, shall provide.

(b) *On resumption of service.* After withdrawal from the retirement system any member who resumes service in the New Mexico public schools may immediately acquire membership in the retirement system on payment of the regular contributions, and any portion of earlier contributions toward retirement by and for the member, with interest accumulations, that has not been paid to the member or transferred shall be credited to his account.

(c) *On leave of absence.* Any employee who is granted a leave of absence from service shall maintain his status in the retirement system and shall not be forced to elect one of the several options open to those who withdraw from service. He may either continue or discontinue making regular payments to the retirement system, but

any payments made during a period of absence shall not be matched by the state unless the employee is on a paid leave of absence, in which circumstances the state shall pay the regular contributions on the basis of the actual salary which is being paid to the employee.

(d) *On transfer to another system.* Any member who enrolls in another retirement system may have the amount credited to his account, with interest accumulations, transferred to the new system, subject to such conditions as set forth in this act and on approval of the retirement board. Provided that no transfer may be made unless the amount transferred shall be used only for the purpose of providing an annuity in such form as the retirement board shall approve, and on condition that the member shall not be permitted to make a cash withdrawal at any time of the amount transferred.

Section 24. Death Benefits. (a) *Prior to retirement.* If a member of the retirement system die before retirement, all contributions to his account, with interest accumulations, compounded annually, shall be paid to a beneficiary designated by the member or to the member's estate, such death benefits to be paid in one payment of not to exceed five hundred dollars (\$500), and the remainder, if any, in equal quarterly or monthly payments, or the entire amount to be paid to a designated beneficiary, or to the member's estate, in equal monthly or quarterly payments. The number of payments shall be determined or specified by the retirement board, but in no instance shall the number of payments under either option be less than 4 quarterly payments or 12 monthly payments, nor more than 40 quarterly payments or 120 monthly payments.

(b) *After retirement.* If a member die after having retired, the payment of his equity, if any, shall be made in accordance with the option exercised, as stipulated in Section 21, less deductions for all retirement allowances paid from his account.

Section 25. Designation of beneficiaries. Any member of the retirement system may, by written notice to the retirement board, in such form as it shall approve, designate any person or persons as a beneficiary to whom any benefit payable at the death of the member shall be paid. The member may from time to time by a like written notice change the beneficiary. If no beneficiary shall have been named by the member, such death benefit shall be payable to the estate of the member.

If a member of the retirement system fail to designate any particular manner of disposing of his interest in the retirement system, then such interest shall be paid to his lawful heir or heirs in such manner as the retirement board may order. Should no claim

be made on the retirement board within six months next following the death of such member for the payment of benefits due under this act, such benefits, if not exceeding \$500, may be paid to such person as the retirement board may adjudge to be entitled to the estate, and such payment shall be a bar to recovery by any other person.

Section 26. Disposition of interests of members who die intestate or without heirs. Should any member of the retirement system die intestate or without lawful heirs, or without designating a beneficiary of his interest or equity in the retirement system, such interest or equity shall revert or be paid to the expense fund.

Section 27. Disposition of residue funds. All residues in individual accounts not otherwise disposed of herein, and all other amounts or residues, not otherwise provided for or disposed of herein, shall be placed in the expense fund.

Section 28. Exemption of member's rights and benefits from taxation and process of law. That portion of the salary or wages of a member of the retirement system deducted or to be deducted under this act, the right of a member to an annuity, and all his rights in the funds of the retirement system shall be exempt from taxation by the state or any of its subdivisions and from the operation of any laws relating to bankruptcy or insolvency, and shall not be attached or taken upon execution or by process of any court. No assignment of any rights in or to said funds shall be valid, except as herein provided.

Section 29. Exemption of retirement funds from taxation. All funds of the retirement system shall be exempt from taxation.

Section 30. Retirement act as part of contracts. Every contract of employment as a professional employee made after this act takes effect shall be subject to the provisions of the state retirement law, and such provisions shall be read in as part of every contract coming within the scope of this act.

Section 31. Notification to employees as to their obligations. The board of education of each county, municipality, independent rural school district, and union high school of this state shall before employing any person who comes within the scope of this act notify such person of his duties and obligations under the retirement system as a condition of employment, but failure to do so shall in no way set aside the provisions of Section 30.

Section 32. Audit of accounts. The accounts of the retirement board and accounts of the state treasurer as custodian of the funds

of the retirement system, and the cash and securities in their hands representing such funds, shall be examined and audited annually, at the time and in the manner designated by the retirement board, and the results of such audits shall be made public.

Section 33. **Transfer of rights from previous state retirement system.** All deposits or contributions made to the "New Mexico Retirement System" by members thereof, which system is superseded by the system established by this act, shall be, at their option, if exercised within one year of the date of the inauguration of the system created by this act, be returned to said members, with interest at the rate of $3\frac{1}{2}$ per cent, or have their contributions with interest accumulations, plus contributions from the state equal to their contributions, with interest accumulations, in so far as funds are available or shall be made available by the legislature for such purpose, transferred to their account with the "New Mexico Educational Retirement System" to be used in accordance with the provisions of this act. Provided that any member of the "New Mexico Retirement System," as established by Chapter 103, Laws of 1933, shall be privileged to continue under the terms of said law, but in no instance shall any liability incurred by the "New Mexico Retirement System" be held to be an obligation of the "New Mexico Educational Retirement System" as established by the terms of this act, except as herein provided.

Any residues to the credit of the "New Mexico Retirement System," not otherwise disposed of herein, shall be transferred to the expense fund of the "New Mexico Educational Retirement System," to be used in accordance with the terms of this act.

Section 34. **Repealing the act creating "New Mexico Retirement System."** Sections 1 to 9, inclusive, of the act creating the "New Mexico Retirement System," Chapter 106, Laws of 1933, are hereby repealed.¹

4. If any teachers have enrolled by the time the new system is established this section should be made to read somewhat as follows:

Section 34. *Limiting the act creating "New Mexico Retirement System."* Sections 1 to 9, inclusive, of the act creating the "New Mexico Retirement System," Chapter 106, Laws of 1933, shall not be applicable to any teacher or employee within the scope of said law, unless he has enrolled therein prior to the date that the present retirement law is enacted.

II. PROPOSED RETIREMENT LAW FOR NEW MEXICO, INVOLVING SELF-INSURANCE

NEW MEXICO EDUCATIONAL RETIREMENT SYSTEM

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A RETIREMENT SYSTEM FOR EMPLOYEES OF THE PUBLIC SCHOOLS AND OTHER STATE EDUCATIONAL INSTITUTIONS SUPPORTED BY THE STATE OF NEW MEXICO OR ANY POLITICAL SUBDIVISION THEREOF; CREATING A FUND FOR SUCH PURPOSE; AND PROVIDING FOR THE ADMINISTRATION OF THIS ACT.

Be It Enacted by the Legislature of the State of New Mexico:

Section 1. **Establishing an educational retirement system.** The "New Mexico Educational Retirement System," hereinafter called the retirement system, is hereby established, to become effective on July first, nineteen hundred thirty , for the purpose of providing retirement allowances and other benefits for the employees of the educational system of the state of New Mexico, subject to the terms of this act.

Section 2. **Definitions.** The following words and phrases as used in this act shall have the meanings set forth in the immediately succeeding paragraphs, unless different meanings are plainly evident from the context:

(1) "Public schools" shall mean any school comprising kindergarten and grades one to twelve inclusive, or any part thereof, supported wholly or in part by public funds and under the control and supervision of the New Mexico state department of education, or any school comprising kindergarten and grades one to twelve inclusive, or any part thereof, conducted as a training school in conjunction with one of the state educational institutions.

(2) "State educational institutions" shall mean and include the following: the University of New Mexico, the New Mexico College of Agriculture and Mechanic Arts, the New Mexico School of Mines, the New Mexico Military Institute, the New Mexico Normal University, the New Mexico Normal School, the Eastern New Mexico Normal School, the Spanish American Normal School, New Mexico Asylum for Deaf and Dumb, the New Mexico Institute for the Blind, and other similar schools or institutions as hereafter may be created or established.

(3) "Employee"¹ shall mean any president, dean, superintendent, principal, business manager, registrar, supervisor, professor, instructor, teacher, coach, librarian, nurse, janitor, truant officer, groundkeeper, or other such persons, employed as a principal occupation to instruct, care for, or control pupils or students, or to administer, direct, organize, or supervise any educational activity or to care for school property.

(4) "Employer" shall mean the state or any division thereof authorized to employ and have oversight of the employees who come within the scope of this act.

(5) "School year" shall mean the twelve months from and including the first day of July of any year to and including the thirtieth day of June next succeeding.

(6) "A year of experience" means employment for the full time which the employer conducted school during a school year, with such exceptions as the retirement board may make.

(7) "Annuity" shall mean a series of yearly payments made in an agreed amount and manner, based upon such mortality tables among annuitants as the retirement board shall adopt.

(8) "Annual salary" shall mean the actual total amount received for the school year irrespective of the amount stipulated in or as a part of the salary contract.

(9) "Interest" shall mean interest at an annual rate to be specified by the retirement board, compounded annually. Interest periods shall begin and end on such uniform dates as the retirement board may stipulate.

Section 3. Membership in the retirement system. The following shall be eligible for membership in the retirement system under the conditions herein stipulated:

(1) All employees in the service of the public schools and the state educational institutions at the time that the retirement system is inaugurated and who shall signify in writing to the retirement board their intention to become members thereof. However, unless within one year from the date of inauguration of the retirement system those employees who are in service at the time the system is inaugurated shall declare their intention not to become members, membership shall become compulsory on such employees. Any employee

1. In this act all employees of state educational institutions, as well as employees of the public schools, are made eligible for membership in the retirement system. Janitors, truant officers, and groundkeepers have also been added to the list of employees. Whether or not it would be desirable to include employees of the higher institutions in a state retirement system is discussed in footnote 4 in Chapter 1.

in service when the plan is inaugurated, and who is eligible for enrollment, who does not enroll within one year of the date on which the system is inaugurated and declares his intention not to enroll, may enroll on July 1 of any year succeeding, provided he declares his intention to enroll by written notice to the retirement board prior to the date on which he desires his membership to begin. No employee may build at state expense an annuity for any past service rendered during the time that the retirement system was in operation. Provided that membership shall be optional with employees in state higher educational systems which have already established a retirement system offering benefits comparable to those provided by the terms of this act.

(2) All employees hired after the inauguration of the retirement system shall, not later than the beginning of the third year of service in the public schools or the educational institutions herein mentioned, enroll in the retirement system by giving written notice to the retirement board. They may elect to enroll sooner.

Section 4. Certificates of membership. The retirement board shall issue to every member of the retirement system a certificate of membership, which certificate shall state the date of enrollment and give such other information as the retirement board may deem advisable, and to all intents and purposes such certificate shall be of the nature of a contract between the individual members and the retirement system.

Section 5. Employer's statement to retirement board. On or before September thirtieth in each year the employer shall mail to the retirement board a statement as to all employees hired for the ensuing school year, and give such information as the retirement board may require for the identification of such employees. Any employee hired thereafter, during the particular school year, shall be reported to the retirement board within thirty days after the date on which employment actually begins.

Section 6. Information to be furnished retirement board by employees. Upon receiving notice of the employment of the employee for the first time, the retirement board shall immediately mail to the employee, or have distributed through local school officials, a blank calling for such actuarial and other information as the board may at any time require for the identification of the employee and for the determination of his status in the retirement system, which blank properly completed shall be returned promptly to the board.

Section 7. Reports to be furnished by local boards. Every employer shall furnish to the retirement board such reports or information as the latter may require, and the state superintendent of public instruction, officers of state educational institutions, county school superintendents, superintendents of municipal and other independent school districts and of union high schools, principals, teachers, and other employees of the state educational system shall aid and cooperate with the local boards in furnishing or obtaining such reports or information.

Section 8. Retirement system board and manner of selecting the members thereof. The administration of the retirement system shall be vested in a board to be known as the New Mexico Educational Retirement System Board, herein called the retirement board, or the board, consisting of five members, appointed by the governor of the State of New Mexico from a list of recommendations made by the executive committee of the New Mexico Educational Association.

Section 9. Term of office of board members. The term of office of each member of the retirement board shall be five years, and the terms shall be so arranged that one member shall take office on March first of each year. Provided that for the initial terms of office, the board members shall be appointed for the following terms: one for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years.

Section 10. Filling of vacancies on board. Vacancies in the retirement board shall be filled in the same manner as the regular members are selected.

Section 11. Removal of board members. Members of the New Mexico Educational Retirement System Board may be removed by the governor of the State of New Mexico, but only after notice of the charges and an opportunity for a public hearing, and after showing cause, based upon incompetency, or malfeasance, or misfeasance in office.

Section 12. Compensation of board members. The members of the retirement system board shall serve without compensation, but they shall be reimbursed for all necessary expenses which they may incur through service on the board.

Section 13. Powers and duties of the retirement board. (a) *In general.* The retirement board shall be responsible for the control and management of the retirement system, and shall perform such

duties as are required for the execution of the provisions of this act. The board shall have power to make such rules or by-laws, not inconsistent with the provisions of this act, as are necessary to carry this act into effect, and such regulations and by-laws shall have the force of law. No rule or regulation which shall affect a member's status or rights in the retirement system shall be retroactive on such member unless he shall give, in a written statement to the board, his assent to such rule or regulation, except in so far as otherwise provided in this act. The board shall have power to interpret the provisions of this act, and its interpretations shall constitute the true meaning of the law, unless set aside by a court of competent jurisdiction or changed by legislative enactment. The board shall make decisions on all controversies and all matters pertaining to the retirement system, and its decisions shall be final on all such matters in so far as the constitution and statutes of New Mexico permit. It shall be responsible for preparation of the biennial budget to be submitted to the legislature, and it shall make such other recommendations to the legislature for legislative enactments as are necessary for the successful operation of the retirement system. All matters not specifically covered by this act shall be acted upon and handled in accordance with the by-laws and actions of the retirement board.

(b) *To execute the system.* The retirement board shall cause the retirement system to be executed in accordance with the terms of this act, and shall meet the costs incurred thereby by payments from the funds herein created.

(c) *Employment of assistants.* The board shall employ a secretary, full-time or part-time, whose duty it shall be to keep a record of all its proceedings and perform such other duties as the board may require. The secretary shall be under the control of the retirement board and shall be responsible to it for performance of the duties of said position. The board may employ such clerical, legal, actuarial, and medical assistance, and any other type of assistance, as may be necessary for the successful operation of the retirement system.

(d) *Delegation of powers.* The retirement board may delegate to subordinates such ministerial powers and duties as are within the scope of its authority, but by delegating any power or duty it shall not relieve itself of responsibility for such powers or duties, nor for the successful execution of the provisions of this act.

(e) *Make reports.* The retirement board shall submit annually to the governor and the state board of education a detailed statement of the membership, retirements, withdrawals, incomes, investments, expenditures, and amounts on hand of, or pertaining to, the retirement system. Biennially the retirement board shall submit a similar

statement or report to the state legislature, which statement or report shall be printed for general distribution.

Section 14. Treasurer of retirement system. (a) *State treasurer as ex officio treasurer.* The state treasurer shall be *ex officio* treasurer of the state retirement system, and shall give an additional bond in such amount and with such corporate sureties as shall be required and approved by the retirement board, the cost of which bond shall be borne by the state.

(b) *Reports.* On or before the first day of August of each year the state treasurer shall file with the secretary of the retirement board a sworn report or statement of the financial condition of the retirement system and its financial transactions for the year just closed. Such report or statement shall be in the form prescribed by the retirement board.

Section 15. Retirement system funds. (a) *The several funds.* The funds of the retirement system shall consist of an expense fund, an annuity fund, and a contingent reserve fund:

(1) The expense fund shall consist of such amounts as the legislature shall appropriate from year to year on estimates submitted by the retirement board, exclusive of contributions to the annuity fund, and such other amounts as may be made or transferred thereto in accordance with this act. Said fund shall be used to defray the expenses of the administration of this act.

(2) The annuity fund shall consist of contributions made by the employees of the retirement system, with interest accumulations, and contributions made by the state, or transferred, with interest accumulations, and such other contributions as may be made thereto in accordance with this act.

(3) The contingent reserve fund shall consist of gifts and receipts from any source other than those heretofore mentioned, balances that may accrue and which are not otherwise provided for, and all other moneys received by the retirement system in some manner not specifically provided for in other sections of this act. The contingent reserve fund shall be permitted to accumulate for contingencies, and used for such purposes, except payment of salaries, as the retirement board may designate.

(b) *Deposit and investment of funds.* The said funds shall be deposited with the state treasurer and shall be used only for the purposes and in the manner stipulated herein. Transfers from one fund to another may be made only by the retirement board. The state treasurer shall invest such parts of the several funds as are not required for current disbursements in accordance with the state law governing

investments by domestic insurance companies and deposits in savings banks, provided no investment shall be made except on the approval of the retirement board.

Section 16. Annuity fund contributions. (a) *By employees.* Each professional employee shall pay into the annuity fund, in the manner later provided, five per cent of his annual salary, or approximately five per cent of his salary in accordance with a salary schedule arranged in step intervals as prescribed by the retirement board, provided that no employee's compulsory contribution shall be less than \$24 annually nor any in excess of \$200 annually. At any time any member of the retirement system or any person in his behalf, may make such additional contributions as he may elect, but such additional contributions shall not be matched by the state.

Any employee in the service of the New Mexico public schools at the time the retirement plan is inaugurated may contribute in regular payments or in a lump sum one per cent of his current salary for the number of years corresponding to the number of years of past service in New Mexico public schools, and the state shall match such contributions for past service, the total contributions to be placed to the credit of the member concerned.

(b) *By the state.* The state shall match each employee's regular contribution to the annuity fund, and such contribution shall be paid into the annuity fund and credited to the employee's account. The state's contributions shall be made quarterly by the state treasurer, on receipt of warrant issued by the state auditor, based upon a statement from the retirement board as to the amount due. The state's contributions shall be paid from the State School-----Fund, and shall constitute a prior lien on said fund.

Section 17. Collection of contributions. Every county, municipal, independent rural, and union high school board, and boards of state educational institutions, shall deduct and withhold from the compensation of each professional employee enrolled in the retirement system, on each pay roll after the taking effect of this act, such percentage of his salary or such amount as the retirement board shall designate, not to exceed in the aggregate five per cent, or approximately five per cent, of the annual salary. Any person or officer whose duty it is to prepare the pay roll for the payment of employees within the scope of this act shall indicate on each pay roll the entire monthly salary of each employee, the amount to be paid each employee, and the amount if any, to be deducted for the contribution to the annuity fund, and shall indicate on the pay roll the total deduction made on behalf of the retirement system.

Whenever any deduction has been made from the salary or wages of any member of the retirement system, the employer shall within ten days of the date of making the deduction send to the secretary of the retirement board a copy of the pay roll in the form approved by the retirement board with a remittance payable to the order of the treasurer of the state of New Mexico for all deductions made in conformity with this act.

Section 18. Employers' duties as to deductions from salaries. Every employer shall be responsible for the payment to the retirement board of the contributions to be made by all employees enrolled in the retirement system and in the service of such employer. No employer shall, without the consent of the member concerned, withhold or deduct from any member's compensation on any pay roll any amount in excess of the required deduction for the period covered by such pay roll.

Section 19. Salary less deductions shall be complete payments. Notwithstanding any other law, rule or regulation to the contrary, payment of the regular salary, or compensation to members of the retirement system, less the required deduction herein provided for, shall be full and complete discharge of all claims for service rendered by such members during the period covered by such payments.

Section 20. Keeping of individual accounts. The contributions made by the members of the retirement system, and those made by the state or anyone in their behalf, to the annuity fund hereinbefore created shall be credited as made to such members severally in individual accounts up to the time of retirement. Contributing members shall also be credited as of July 1 of each year with the interest earned by all contributions to their account, and with such other credits as the retirement board may vote or order.

Said accounts shall be open to the members of the retirement system, and each member shall be informed of his status in the retirement system as often and in such manner as the retirement board shall designate, but each member shall be entitled to a statement of his account at least once annually. The amount to the credit of the account of each member of the retirement system shall be used only in the manner stipulated in this act.

Section 21. Age retirement benefits. Any member of the retirement system who shall have reached the age of sixty-five, or at any time thereafter, and who shall have retired from active service in the public schools of New Mexico shall receive an annuity in such amount as all contributions to his account, with interest accumula-

tions to the date of retirement, shall provide, payable in any one of the following three ways, at his option, and in such manner as the retirement board may stipulate:

(1) An annuity payable during the life of the member with no residue at death.

(2) An annuity payable to the member during his life followed by an annuity payable to a beneficiary during the life of the beneficiary.

(3) A guaranteed return annuity providing that any portion of the deposits or contributions with interest accumulations to the credit of the member's account up to the time of retirement that has not been paid in the form of an annuity to the member before his death shall be paid by continuing the annuity payments to a beneficiary or to the member's estate until the sum of all payments total or equal the amount to the credit of the member.

Section 22. Retirement ages. Any member of the retirement system, male or female, may continue in service in the public schools or state educational institutions to the age of sixty-five years, but no member may continue in the service of said schools after the age of sixty-five except with special permission from the retirement board. Such permission shall be for not more than one-year periods and shall be made only on the recommendation of the employer. The retirement board may compel any professional employee who has attained the age of sixty-five to retire at any time, even though it had previously granted the employee privilege to continue in service; or it may grant to members, for cause, privilege to retire before the age of sixty-five on a retirement allowance in such amount as the total contributions to their credit will provide, adjusted in accordance with the age at which the retirement allowance shall begin, such privilege to continue at the discretion of the board. No one may continue in service who has reached the age of seventy years, except to complete a year of service commenced before reaching the age of seventy years.

Section 23. Benefits and privileges on withdrawal. (a) *Method of paying benefits.* Any member of the retirement system withdrawing from the service of the public schools or state educational institutions before becoming eligible to retirement shall be entitled to receive a paid-up annuity of any of the types described in Section 21 in such amount as all contributions to his account, including those made by the state, or by anyone in his behalf, with interest accumulations, shall provide.

(b) *On resumption of service.* After withdrawal from the retirement system any member who resumes service in the New Mexico

public schools or state educational institutions may immediately acquire membership in the retirement system on payment of the regular contributions, and any portion of earlier contributions toward retirement by and for the member, with interest accumulations, that has not been paid to the member or transferred will be credited to his account.

(c) *On leave of absence.* Any employee who is granted a leave of absence from service shall maintain his status in the retirement system and shall not be forced to elect one of the several options open to those who withdraw from service. He may either continue or discontinue making regular payments to the retirement system, but any payments made during a period of absence shall not be matched by the state unless the employee is on a paid leave of absence, in which circumstances the state shall pay the regular contributions on the basis of the actual salary which is being paid to the employee.

(d) *On transfer to other system.* Any member who enrolls in another retirement system may have the amount credited to his account, with interest accumulations, transferred to the new system, subject to such conditions as set forth in this act and on approval of the retirement board. Provided, however, that no transfer may be made unless the amount transferred shall be used only for the purpose of providing an annuity in such form as the retirement board may approve, and on the condition that the member shall not be permitted to make a cash withdrawal at any time of the amount transferred.

Section 24. Death benefits. (a) *Prior to retirement.* If a member of the retirement system die before retirement, all contributions to his account, with interest accumulations, shall be paid to a beneficiary designated by the member, or to the member's estate, such death benefits to be paid in one payment of not to exceed five hundred dollars (\$500), and the remainder, if any, in equal monthly or quarterly payments, or the entire amount to be paid to a designated beneficiary, or to the member's estate, in a number of equal monthly or quarterly payments. The number of payments shall be determined by the retirement board, but in no instance shall the number of payments under either option be less than 4 quarterly payments or 12 monthly payments, nor more than 40 quarterly payments or 120 monthly payments.²

(b) *After retirement.* If a member die after having retired, payment of his equity, if any, shall be made in accordance with the option exercised, as stipulated in Section 21, less deductions for all retirement allowances paid from his account.

2. Under certain conditions it might be advisable to make it possible for the board to pay a member's equity in the form of an annuity.

Section 25. Designation of beneficiaries. Any member of the retirement system may, by written notice to the retirement board, in such form as it shall approve, designate any person or persons as a beneficiary to whom any benefit payable at the death of a member shall be paid. The member may from time to time by a like written notice change the beneficiary. If no beneficiary shall have been named by the member, such death benefit shall be payable to the estate of the member.

If a member of the retirement system fail to designate any particular manner of disposing of his interest in the retirement system, then such interest shall be paid to his lawful heir or heirs in such manner as the retirement board may order. Should no claim be made on the retirement board within six months next following the death of such member for the payment of benefits due under this act, such benefits, if not more than five hundred dollars (\$500), may be paid to such person as the retirement board may adjudge to be entitled to the estate, and such payment shall be a bar to recovery by any other person.

Section 26. Disposition of interests of members who die intestate or without heirs. Should any member of the retirement system die intestate or without lawful heirs, or without designating a beneficiary of his interest in the retirement system, such interest shall revert to the contingent reserve fund.

Section 27. Disposition of residue funds. All residues in individual accounts not otherwise disposed of herein, and all other amounts or residues not otherwise provided for or disposed of herein, shall be placed in the contingent reserve fund.

Section 28. Exemption of member's rights and benefits from taxation and process of law. That portion of the salary or wages of a member of the retirement system deducted or to be deducted under this act, the right of a member to an annuity, and all his rights in the funds of the retirement system shall be exempt from taxation by the state or any of its subdivisions and from the operation of any laws relating to bankruptcy or insolvency, and shall not be attached or taken upon execution or by process of any court. No assignment of any rights in or to said funds shall be valid, except as herein provided.

Section 29. Exemption of retirement funds from taxation. All funds of the retirement system shall be exempt from taxation.

Section 30. Retirement act as part of contracts. Every contract of employment as a professional employee made after this act takes

effect shall be subject to the provisions of the state retirement law, and such provisions shall be read in as a part of every contract coming within the scope of this act.

Section 31. Notification to employees as to their obligations. The board of education of each county, municipality, independent rural school district, and union high school of this state, and board of any state educational institution, shall before employing any person who comes within the scope of this act notify such person of his duties and obligations under the retirement system as a condition of employment, but failure to do so shall in no way set aside the provisions of Section 30.

Section 32. Audit of accounts. The accounts of the retirement board and accounts of the state treasurer as custodian of the funds of the retirement system, and the cash and securities in their hands representing such funds, shall be examined and audited annually at the time and in the manner designated by the retirement board, and the results of such audits shall be made public.

Section 33. Transfer of rights from previous state retirement system. All deposits or contributions made to the "New Mexico Retirement system" by members thereof, which system is superseded by the system established by this act, shall at their option, if exercised within one year of the date of the inauguration of the system established by this act, be returned to said members, with interest at the rate of $3\frac{1}{2}$ per cent, or have their contributions with interest accumulations, in so far as funds are available or shall be made available by the legislature for such purpose, plus contributions from the state equal to their contributions, with interest accumulations, transferred to their account with the "New Mexico Educational Retirement System" to be used in accordance with the provisions of this act. Provided that any member of the "New Mexico Retirement System" as established by Chapter 103, Laws of 1933, shall be privileged to continue under the terms of said law, but in no instance shall any liability incurred by the "New Mexico Retirement System" be held to be a liability of the "New Mexico Educational System" as established by the terms of this act, except as herein provided.

Any residues to the credit of the "New Mexico Retirement System" not otherwise disposed of herein, shall be transferred to the contingent reserve fund of the "New Mexico Educational Retirement System," to be used in accordance with the terms of this act.

Section 34. Repealing the act creating "New Mexico Retirement System." Sections 1 to 9 inclusive of the act creating the "New Mexico Retirement System," Chapter 106, Laws of 1933, are hereby repealed.¹

3. For note applicable to this section see note 4 under Proposed Law I.

Appendixes

APPENDIX A

RAINARD B. ROBBINS' EVALUATION OF THE PRINCIPLES RECOMMENDED BY THE NATIONAL EDUCATION ASSOCIATION

FUNDAMENTAL PRINCIPLES OF A TEACHER RETIREMENT SYSTEM

By RAINARD B. ROBBINS¹

The November, 1930, Research Bulletin of the National Education Association states with brief discussion fifteen fundamental principles of teacher retirement systems. The following is a discussion of these principles.

I. Membership should be compulsory for teachers entering the service after the enactment of the retirement law; optional for teachers already in service.

Referring to the last clause of this principle, the report states that it would probably be desirable to require all teachers to become members if it were not for the opposition which might be met from present teachers to the enactment of the retirement plan law. Certainly, this is an important practical matter to consider. Another legitimate argument which applies sometimes is that some present teachers have, in the absence of a retirement plan, made preparation as individuals for old age benefits. It may not be reasonable to require that they be members of the retirement plan, although the usual contributory plans are made so attractive that it is very poor business for anyone to remain out.

The report lists seven reasons for the principle that the plan should be compulsory for new teachers. Most of this argument is for early entrance into the plan and possibly has its origin in the fact that an earlier set of principles suggested that membership should not be compulsory until the teacher had reached age twenty-five. A waiting period is not infrequent in retirement plans and has much to support it. However, it would seem that this is not one of the fundamental principles. It would seem that the argument for compulsion should be more fundamental than merely how early one enters a plan. The question at issue in many cases is whether or not entrance is made at any time. The outstanding fact is that we all have individual opportunities to save for our old age without the establishment of retirement plans. Banking and insurance facilities

1. Secretary of Teachers Insurance and Annuity Association of America.

are not only available but are continually urged upon us. The very fact that retirement plans are established shows that without compulsion, individuals do not provide for their old age. We are convinced that for the good of our schools and for the good of society, it is important that such provision be made, hence compulsion.

II. (a) Retirement ages and rules should be defined and administered so as to retain teachers during efficient service and provide for their retirement when old age or disability makes satisfactory service no longer possible. (b) The retirement allowance should be sufficient to enable the retiring teacher to live in reasonable comfort, thereby removing the temptation to remain in the classroom beyond the period of efficient service.

In copying this provision, I have inserted (a) and (b) with the thought that the two parts should be discussed separately. There should be no disagreement with part (a); in fact, it is a statement of the purpose of a retirement plan. However, it may be difficult in writing a law and in administration to bring about what is desired. Minimum retirement conditions with encouragement to continue in teaching after these conditions are met probably come as close as possible to the desired. But if an efficient teacher, age sixty, with thirty years of service (if those are the requirements) decides to retire either to undertake something else which has appealed to her for years or to live at ease with the aid of the retirement allowance and possibly other income, it would probably be unwise to attempt to set up a system which would make this impossible. Too much discretion in the hands of a board is easily possible.

On the other hand, there is, of course, the difficulty that a retirement board may think a teacher should be retired when the teacher is confident of her ability to continue. The retirement board must have discretion in such cases to act with the advice of the employer and, if necessary, of an examining physician. In too many cases, the tendency of the employer and the board is to allow an inefficient teacher to continue until the compulsory retirement age is reached even though they realize that her efficiency has gradually been lowered through superannuation. These remarks reflect no disagreement with the principle, but merely point out the difficulties involved.

Part (b) is not so simple. Nothing short of full pay would be sufficient to induce some teachers to leave their jobs. Furthermore, there are many complications involved in a plan which starts with the principle that it must make retirement benefits substantial. This report starts with the hypothesis that a retirement system is primarily an efficiency measure and that the superannuated teacher should be retired in the interest of suffering boys and girls in schools. Without

questioning this point of view, it would be unwise to establish retirement plans on this hypothesis without considering their social effect in other directions. The theory of scientific plans involves spreading the load of provision for old age over the active period of adult life. If a teacher is employed anew at fairly advanced age and a substantial retirement benefit is to be built up during her remaining working years, the contributions each year will have to be unusually heavy or else the plan must require that she remain in service so long that she is almost certain to be superannuated long before eligible for retirement. The result is, of course, that under any employment subject to a retirement plan which involves a substantial retirement allowance on the principle that a smaller allowance will not be sufficient encouragement to bring about retirement, new teachers will not be hired at advanced age. There are various reasons why it may be desirable in individual cases to employ a teacher who comes in middle age from another school system. Furthermore, from the standpoint of the teacher as well as from that of the public, it may be quite inadvisable to tie teachers to their jobs. Yet this is just the tendency which is encouraged by the principle that the retirement allowance earned under any employer should be sufficient for comfortable retirement and by the principle to be considered later that upon separation from the service, the contributions of the employer are sacrificed and those of the teacher are paid in cash.

III. The sums deposited by the teachers and by the public during the period of service should be approximately equal.

The practice of matching dollars seems to be fairly well established, and largely for psychological reasons, is probably more satisfactory than any other arrangement. However, I doubt if this should be considered a fundamental principle for retirement plans. I see no reason why we should not expect success of a plan in which the employer pays a definite proportion, either more or less than half. As a matter of fact, many plans require payment of a percentage of salary on the part of the employee without the provision that the state shall match the employee's annuity with a pension, but rather with pension benefits stated which are related to salary and years of service, and the provision that the state shall pay whatever employees' contributions will not pay. This is not a fifty-fifty arrangement, but seems to be satisfactory so far as proportion of payments is concerned.

There is something about the apparent sharing of this burden which seems quite satisfying to all concerned, although the philosophy of who really pays for retirement benefits is a much larger problem.

IV. The deposit by the teacher and the payment by the public should be stated by the organic act creating a retirement system, subject to adjustment in accordance with future actuarial investigation.

There can be no disagreement with this principle. As is pointed out by the report in discussing it, too often the state's contribution has not been definite in the same way as has been that of the teacher. This has, of course, been very serious with many plans. It has been especially serious because the state has not been responsible for the promises or expectations of benefits under these plans. Possibly unsound plans would have been established less freely if it had been a custom to make the state or the employer responsible for the obligations arising under the plan.

V. The teacher's contributions and the state's payments to the retirement fund should be made regularly and concurrently during the teacher's period of service.

As is brought out by the report in discussing this principle, it is included because in the past the state has frequently failed to pay its part currently. The contribution required of the teacher is usually obtained through salary deduction provided for in the law, so that there is no question of such payment being made. As to the state, even though the law may state specifically that certain contributions shall be made annually through appropriation, it is rather difficult to force these appropriations, and at times they have not been made. Some plans do not provide for state contributions currently. It has been quite a moot question whether the state should make contributions concurrent with those of the employee or merely guarantee the fund and appropriate whatever moneys are necessary to pay benefits. In fact, the system for United States Civil Service employees has paid pensions as well as annuities out of accumulations of employee contributions. The National Education Association takes a very definite stand in this and the next principle that employee contributions should be for annuity purposes only and that the state should not only appropriate for payment of current pensions, but should contribute toward a pension reserve fund as service is being rendered with the intention of having accumulated the reserve necessary to support pension payments when retirement occurs. It is this last point upon which there is a difference of opinion. Some suggest that calculations should be made each year to show the state's liability due to service which has been performed, but that the state need not fund this liability, merely guaranteeing it in the law. It is pointed out that large pension reserve accumulations have tempted legislative bodies in the past to use these funds for other purposes. It is also pointed out that these large reserves and the necessity for appropriation to increase

them still further has met opposition of tax-payers and legislators to provision for retirement of public employees, especially at times when the tax burden is unusually heavy. The large accumulation makes the tax-payer feel that he is doing too much for public employees, especially when he must make his own provision for old age. It is also pointed out that it takes just so much to pay retirement benefits, that the amount paid out is independent of when provision for such payment is made and that while the contribution rate may be much smaller when made on the reserve basis, these reserves are usually invested in municipal securities and that interest which is added is paid by tax-payers just as would be the additional appropriation necessary in case the reserve basis were not used.

Despite these arguments, the point of view of the National Education Association seems to the writer to be far preferable. We must face squarely the question of whether or not we are going to support teachers' retirement benefits. This must be done finally with full information on the part of the tax-payer as to what these benefits cost. If we have been too liberal in the benefits, sooner or later they will be scaled through pressure of tax-payers. Without question, there has been unduly liberal legislation in some states for public employee retirement benefits, such legislation being obtained through the efforts of those directly interested, and in the absence of any organized opposition. This unduly favorable legislation may prove a boomerang by developing resistance to any form of benefits for public employees. Assuming, however, that the public is willing to support modest retirement benefits for teachers and that the expectation is held out to teachers during their working years that such benefits will be available, then the state should take every precaution to see that these expectations are not disappointed, especially when the teacher is required to submit to salary deductions to support approximately half of the cost. The surest way of being in a position to carry out such contracts is to build up a reserve fund during the working years of the teacher so that upon retirement it will be large enough with conservative interest additions to support the promised benefit payments. Unless this liability is funded, the teacher pays her money in, year after year, throughout her working years and depends upon a promise which can be kept only by means of oppressive appropriations made after her retirement. To encourage retirement through such a promise and still leave a possibility of repudiating the promise is far worse than never to have made the promise in the first place. This should need no argument.

We need only look to the United States Government in its dealings with soldiers' pensions and to most cities in their dealings with

police and firemen pensions to realize that when the load of reserve accumulations is not appreciated, we are apt to be extravagantly liberal in voting pension benefits. This illustrates one of the most dangerous features of our republican form of government. The voting power of ex-soldiers, and firemen and policemen, and the effect on public opinion of any evidence of other than liberal treatment of these classes has, with rare exceptions, completely undermined our national and state governments in dealing with pension demands. It would seem that this condition might be remedied in part if legislative bodies could be impressed with the costs involved.

VI. The retirement board should open an account with each individual teacher. Sums deposited in that account by the teacher should be held in trust for that teacher.

This provision is fundamental as a safeguard that the teacher shall get the benefit of at least as much as her own contributions. This point of view fits in with the superficial conclusion that salary deductions are the teacher's money and that the contributions of the state are the state's money until retirement benefits are paid. There is a growing attitude that the ultimate solution of our pension problems will require the admission that not only teacher contributions but also employer contributions for current service should be allocated to individual teacher accounts. This, with the elimination of lump sum cash settlements upon separation, would free the retirement plan from the charge of tying a teacher to her job and would eliminate a deadline for employment. With this in mind, I would go further than this principle as stated and suggest that all accumulations on behalf of current service be allocated to individual teacher accounts.

VII. An adequate and actuarially sound reserve fund should be created to guarantee that the necessary money to pay the benefits promised will be on hand at the time of retirement.

This principle, with those which precede it, says simply that rates shall be actuarially calculated to support benefits promised. If the plan begins by promising specific benefits, all who are interested in sound pensions must agree with this principle. There are sound retirement plans, however, which work on the principle of promising just whatever the accumulations on behalf of the teacher will purchase. All that is necessary in connection with this type of plan is to see to it that the contributions are sufficient for substantial retirement benefit. The advantage of this method is, of course, that no careful calculation need be made from year to year to see whether or not the rates of contribution are sufficient. It takes most of the mystery out of the plan. It is not popular with many actuaries because

it eliminates the need for a great deal of complicated work of a nature mysterious to laymen.

VIII. Periodic actuarial investigations should be made of every retirement system to insure its financial soundness.

This principle, like number VII, is necessary for plans fixing the benefit in advance, but is of little importance if the benefit is to be just whatever contributions will purchase.

IX. A retirement allowance should be provided for disabled teachers after a reasonable period of service.

This statement does not define a "disabled teacher" and leaves indefinite a "reasonable time." Whether or not it can be defended on the theory that the plan is in the interests of efficiency depends upon both of these points. From a social standpoint, it would be defensible to provide a benefit during complete and protracted, if not permanent, disability, regardless of period of service if physical fitness is required for employment and proper safeguards are taken to avoid fraud.

A frequent method is to provide a benefit in case of disability after ten or fifteen years of service. This arbitrary service limit, like practically all such arbitrary limits, results in various violations of the intent of the principle. Disabled teachers with less than ten years of service will be kept in service though quite inefficient, in order to complete this technical requirement. Interpretation of length of service rendered will be stretched in every way possible to make up the amount of service required for benefit. Possibly some such arbitrary limits are unavoidable, but it would seem probable that as we get more experience in administration of retirement plans, we shall learn to replace them with sliding benefits, so as to avoid sudden breaks from a condition of no benefit at all to a very substantial benefit upon completion of a condition which is at most a matter of judgment represented by a figure largely pulled out of the air.

X. Teachers leaving the service before the regular retirement ages should retain rights to all moneys accumulated in their accounts. Teachers' accumulated deposits should be returnable upon withdrawal from teaching service, or death prior to retirement.

Statement of this principle emphasizes the lump sum cash settlement upon separation from the service. The discussion of the principle emphasizes that the teacher should have a vested interest in her own contributions. The discussion seems to contrast the idea of personal property in this accumulation with practices of earlier plans under which the teacher had upon separation an equity of less than her accumulations. Little serious attention seems as yet to have been

given to the point of view that the equity of accumulations might be retained for the individual without permitting cash settlement. It seems that most employers, whether public or private, "wash their hands" of an individual when he leaves their service. This may be an aid in solving the immediate problem of establishing a sound retirement plan. It is very short-sighted from a longer range social point of view. Old age differs from other insurance risks in that it never comes suddenly and also in that it is sure to come unless death prevents. Superannuated individuals cannot comfortably and satisfactorily earn a living in our industrial civilization. Taxes are going to support the old age of those who are not otherwise provided. Taxes support school pensions. Whenever a lump sum is paid to a teacher who leaves a particular employer, almost without exception the provision for old age which is represented is dissipated for other purposes. Probably taxes will have to replace this provision. The same boys and girls in whose interests a teachers retirement plan is formed are the ones who will have to pay the taxes to care for the old age of those whose earlier savings for old age purposes are dissipated for other uses. The tax-paying public has a direct interest in seeing to it that accumulations for pension purposes are not dissipated for other uses regardless of the type of public servant in question.

The writer would, therefore, strongly urge the elimination of a cash settlement as a general principle of retirement legislation and replace it by:

1. A requirement that the full accumulation of contributions on behalf of current service, whether made by the employer or the employee, shall be credited to individual employees.
2. A requirement that upon withdrawal no part of this accumulation shall be forfeited and that no part shall be cashable.

XI. The teacher should have the opportunity to elect the manner in which he will receive the benefits represented by the accumulated value of his deposits and the state's payments.

While this provision is admirable, I do not see that it is a fundamental principle.

XII. Upon the adoption of a retirement plan, teachers should be given credit for their service prior to the establishment of the system. Funds for this purpose should be provided by the public.

This principle has to do with a transition problem. It is admirable, but I do not think it is fundamental. Many contemplated plans have been given up permanently and others have been delayed for a generation because a method of solving this transition problem was not

found. The older employee would have been at least as well off in such an organization if a plan had been established to provide adequately for new employees and only inadequately for the older ones, and if a plan had been established a generation ago, even if it applied only to new employees, it would now be serving all in an efficient manner.

Transition problems in pension plans are the most troublesome of all. It is because of the problem presented by those already old that thought is turned toward provision for old age benefits. It is, therefore, natural even though illogical that plans should be delayed or abandoned if it cannot be seen how to finance such immediate problems. There is much to be said for the point of view of proceeding to establish a plan which is sound and economical for young employees and to do what seems possible for the older employees who present the immediate but transition problems.

XIII. The public should guarantee active teachers all the benefits which they had a reasonable right to expect under the old system. It should guarantee teachers retired under a previous system the allowance promised at the time of their retirement.

To some extent this is related to the preceding principle. What can be reasonably expected of some of our unsound plans is quite problematical. If this can be determined, there is no doubt that obligations previously undertaken should be recognized. One of the principal reasons for this, aside from that of fair-play, is that we cannot expect to establish confidence in the promises involved in a new plan by repudiating expectations created by its predecessor.

XIV. Provisions should be made for co-operative or reciprocal relations between the retirement systems of the different states.

This principle should be very important so long as cash settlements are available upon withdrawal. A study of results in actual practice would be necessary to find how it is working out. It would be of no particular importance if full equity were retained upon transfer and if cash were not available upon separation from a particular retirement plan. The availability of cash, even if not forced, encourages the human weakness of using cash for immediate needs or wants. Furthermore, the wide difference in transfer provisions of the relatively few retirement plans which have such provisions weaken their effect. The best solution seems to be to make such a provision unnecessary.

XV. The administration of the retirement system should be in the hands of a retirement board whose make-up is care-

fully prescribed in the retirement law, and which represents both the public and the teachers.

That the make-up of the board should be carefully prescribed is doubtless desirable. The degree of teacher representation which is desirable is open to question. Different plans use different methods. It is, of course, important that the board consist of persons who will take a keen interest in doing a good job, but it may be best that they be so chosen as to be as nearly as possible disinterested from the standpoint of an employee or an employer. Public employee retirement plans have made more rapid progress than have industrial plans probably because no one individual or no small group of individuals is in the same position as is the industrial employer so far as cost is concerned. If the plan is desired by the public employee, his voting strength will tend to eliminate any resistance on the part of the employer representatives, who will be the governor, mayor, council members and legislators. None of these public representatives are interested in the same manner as would be an industrial employer, so that there is not the opposition to suggested plans which would naturally be expected if a substantial outlay of funds were necessary from a relatively small group, the employer class. Possibly, it would be better to have a board with no teacher representatives if such a board could be formed of persons who would take a genuine interest in the problems of the plan.

APPENDIX B

PRESENT RETIREMENT LAW FOR NEW MEXICO

AN ACT

PROVIDING FOR THE ESTABLISHMENT OF A RETIREMENT SYSTEM FOR TEACHERS EMPLOYED IN THE PUBLIC SCHOOLS AND OTHER EDUCATIONAL INSTITUTIONS SUPPORTED BY THE STATE OF NEW MEXICO OR ANY POLITICAL SUBDIVISION THEREOF; CREATING A FUND FOR SUCH PURPOSE AND PROVIDING FOR THE ADMINISTRATION OF THIS ACT.

Senate Bill No. 224; Approved March 13, 1933

Be it enacted by the Legislature of the State of New Mexico:

Section 1. That a retirement system is hereby created and established, which system shall be under the control and management of the State Board of Education, for the purpose of providing a pension and other benefits for the teachers of the State of New Mexico, subject to this Act as hereinafter provided.

Section 2. The teachers of the State of New Mexico, subject to the provisions of this Act, are as follows, to-wit:

(a) All public school teachers of city and county schools, including independent school districts and union high school districts, which are supported by taxation in New Mexico.

(b) All teachers employed by the University of New Mexico, The New Mexico College of Agriculture and Mechanic Arts, The New Mexico School of Mines, The New Mexico Military Institute, The New Mexico Normal University of Las Vegas, New Mexico, The State Teacher's College of Silver City, New Mexico, The Spanish-American Normal School at El Rito, New Mexico, New Mexico Asylum for Deaf and Dumb, New Mexico Institute for the Blind, The Eastern New Mexico Normal School at Portales, New Mexico, and such other like schools as may be hereafter created or established.

Section 3. Every teacher eligible under this Act, in order to participate in the benefits hereunder, shall be obliged to contribute to the fund hereinafter created, the following sums each year, to-wit:

(a) The sum of 50c per month on a monthly salary of less than \$100.00;

(b) The sum of \$1.00 per month on a monthly salary of \$100.00;

(c) The sum of \$1.50 per month on a monthly salary of more than \$100.00 and not more than \$150.00;

(d) The sum of \$2.00 per month on a monthly salary of more than \$150.00;

Such contributions shall be paid annually not later than the thirty-first day of December of each year, or, at the option of the teacher with the consent of the State Board of Education, such contributions may be paid quarterly or semi-annually. Such contributions shall be paid to the State Board of Education and by it, within twenty-four hours after the receipts of same shall be deposited with the state treasurer and by him credited to fund, hereby created, and known as the New Mexico Teachers' Pension Fund.

Section 4. The New Mexico Teachers' Pension Fund, hereby created, shall be composed of all contributions made by teachers as herein provided, income from the investment of moneys in the fund, 5% of inheritance taxes collected each year by the state of New Mexico, appropriations made by the legislature and donations and gifts made to the fund.

Section 5. The administration of the Teachers' retirement system is hereby vested in the State Board of Education and shall by it be administered. Said board shall employ such clerical assistance as may be needed to administer such system, provided that the amount expended for such purposes shall not exceed two per cent of the income in any one year.

Section 6. Each public school teacher, who shall have paid into the fund as herein before provided, and who shall have reached the age of 65 years and shall have taught school in New Mexico for 25 years from and after January 1, 1934, shall be entitled to retire and receive an annual retirement pension for life in the sum of \$400.00 per year, payable in 12 equal monthly installments. Such teachers, incapacitated from further service, who have taught at least 10 years in the public schools in New Mexico or other educational institutions as herein specified, shall be entitled to retire and receive an annual retirement pension in the same proportion of \$400.00 as his or her time of service bears to 25 years, which pension shall be paid by the state treasurer out of the New Mexico Teachers' Pension Fund by warrants upon vouchers executed by the State Board of Education. If any retired teachers receiving the benefits of this Act shall be thereafter re-employed such teacher's retirement pension shall cease. In the event any teacher, after accepting the provisions of this act, may so elect, such teacher may at any time withdraw all moneys paid by such teacher into the fund as herein provided upon written request to the State Board of Education, and upon such withdrawal such

teacher shall forfeit any and all rights to the pension privileges hereunder.

Section 7. Each teacher employed in the county or city schools in New Mexico and in the institutions herein before specified, electing to qualify under this Act and accept the provisions thereof, shall on or before January 1, 1934, file with the State Board of Education a statement of his or her age, teaching experience and other information as may be required by the State Board of Education, and each teacher hereafter employed, as herein provided, shall have the right to elect to participate in the benefits of this Act by filing, on or before January 1st, of each succeeding year, with the State Board of Education the information in this paragraph provided.

Section 8. Funds paid to the state treasurer under this Act shall be invested under the direction of the State Board of Finance, and the state treasurer, as custodian of such funds shall be obliged to furnish a corporate surety bond conditioned to account for all moneys paid into the fund and otherwise for the faithful performance of the trust herein imposed, in such amount as may be required by the State Board of Finance.

Section 9. The State Board of Education shall be and hereby is given the power to adopt such rules and regulations as may be required to fully carry out the provisions of this Act.

APPENDIX C

LETTER FROM RAINARD B. ROBBINS REGARDING
THE PRESENT NEW MEXICO RETIREMENT
SYSTEM

The following is a copy of a letter from Rainard B. Robbins consulting actuary and secretary of the Teachers Insurance and Annuity Association of America.

522 Fifth Avenue, New York
June 26, 1933

Dear Mr. Robinson:

I wish to thank you for a copy of the law enacted by the legislature of the State of New Mexico a few months ago for the creation of a retirement plan for teachers in case any teacher made eligible by the law wishes to take advantage of it. This is in many respects a good illustration of what should not happen in the way of legislation for the creation of a retirement plan. Since it is made entirely voluntary, it would seem that regardless of how unpopular it may be a single teacher can force the creation of the system merely by forwarding the proper contribution to the state board of education with the request that it be credited as a contribution under the law on behalf of the teacher in question. The contributions are entirely insufficient to create a fund for payment of substantial benefits and the fact that the contribution is one-half of one per cent of salary in case the salary is less than \$100, ranging up to 1 1/3% in case the salary is \$150 a month and then downward for higher salaries will doubtless have an effect upon the class of teachers interested.

A wide range of teachers is eligible to the plan, this range probably reflecting wide differences of salary, yet the benefit is \$400 a year for those who have reached age sixty-five and have had twenty-five years of service in New Mexico schools regardless of salary. This being the case, the retirement plan may have a strong appeal to very low salaried teachers and no appeal whatever to high salaried teachers. The proportion of the benefits which must be supported by the state will, of course, depend upon the salaries and hence the contributions of the interested teachers. The only definite source of income other than contributions from teachers is 5% of inheritance taxes collected in the State of New Mexico. It is, of course, inadvis-

able to set up a retirement plan dependent for its support upon sources of income entirely unrelated to the services and compensation of the classes to be benefited by the plan.

The law seems to require for service retirement, twenty-five years of teaching service in New Mexico schools after January 1, 1934, as well as attainment of age sixty-five. As long as the benefit to be furnished is a fixed amount, some service requirement in addition to the attainment of a specified age is, of course, essential as a condition for receipt of retirement benefits. However, many of the best plans today have done away with a specified number of years of service as a condition for retirement. Such plans furnish a retirement benefit which in practice will be roughly proportional to the number of years of service rather than a fixed benefit regardless of amount of service.

There is probably nothing more important in devising a retirement plan than to relate contributions and benefits in such a way that there is practically no question but that the contributions are sufficient to furnish the benefits and so that there will be as little danger as possible that the plan will not be carried out as intended.

From the standpoint of the employing public a retirement plan for public employees is for the purpose of retiring those employees when efficiency wanes through advanced age. It seems practically impossible that such a plan should serve this purpose unless membership is made compulsory. It seems unfortunate that a law such as the one here discussed should have been passed when it is so simple to have in its stead a compulsory plan requiring contributions from teachers and contributions from the public, that is, contributions to be accumulated and used to purchase just whatever benefit the accumulated contributions will purchase in the way of a deferred annuity. This simple method sees to it that the public will be able to retire superannuated teachers and also sees to it that the contributions are sufficient to furnish the contemplated benefits since the benefits are just whatever can be purchased with the contributions. In this way it is not essential to determine a contribution which will support a predetermined benefit, but only to require a contribution which we know will furnish a substantial benefit. From 3% to 5% of salary contributed by the teachers and matched by the state is probably as much as can be expected and will furnish for all but the most advanced ages at entry a retirement benefit which will be of great social value.

In all probability the law which has been passed will be of little interest to teachers, but it seems likely that at least a small propor-

tion of them will apply for membership so as to make it necessary to conduct the system although the state has little prospect of obtaining any real value from it.

Yours very truly,

RAINARD B. ROBBINS, *Secretary.*

Mr. D. G. Robinson
517 South Broadway,
Albuquerque, New Mexico.

BIBLIOGRAPHY¹

- Brigham, Harold F. "Pensions for Librarians." *The Library Journal*, 51:267-75, 1926.
- California. Superintendent of Public Instruction. *School Code of the State of California, 1931, Together with Extracts from the Constitution—Extracts from Other Codes and Extracts from the General Laws*. Sacramento: Superintendent of Public Instruction, 1931, 528 pp. (With 1933 Supplement.)
- Edwards, Gurden. "The Benefits to Employees of Sound Pension Plans." *The Annalist*, 26:699-700, 1925.
- Folsom, M. B. "Old Age on the Balance Sheet." *Atlantic Monthly*, 144:399-406. Sept., 1929.
- Furst, Clyde, and Kandel, I. L. *Pensions for Public School Teachers*. Bulletin 12. New York: Carnegie Foundation for the Advancement of Teaching, 1918, 85 pp.
- Furst, Clyde, and Others. *Retirement Allowances for Officers and Teachers in Virginia Public Schools*. Bulletin 17. New York: Carnegie Foundation for the Advancement of Teaching, 1926, 70 pp.
- Kimball, Ingalls. "Industrial Pensions." *The Annals of the American Academy of Political and Social Science*, 161:33-39, 1932.
- New Mexico. State Superintendent of Public Instruction. *New Mexico Common School Annual Financial and Statistical Report of the State Superintendent of Public Instruction, for the School and Fiscal Year 1932-1933*. Santa Fe: State Superintendent of Public Instruction, 1933, 9 pp.
- National Education Association. *Current Issues in Teacher Retirement*. Research Bulletin No. 5, Vol. 8. Washington: National Education Association, 1930, pp. 223-277.
- . *Efficient Training and Retirement Legislation*. Research Bulletin No. 3, Vol. 4. Washington: National Education Association, 1926, pp. 93-160.
- . *Teacher Retirement Allowances*. Research Bulletin No. 3, Vol. 2. Washington: National Education Association, 1924, pp. 67-96.
- . *The Advance of the Teacher Retirement Movement*. Research Bulletin No. 3, Vol. 6. Washington: National Education Association, 1928, pp. 151-201.

1. In addition to the references contained in this bibliography, school laws of the various states were used, in particular, the laws of Connecticut, Massachusetts, Vermont, and Wisconsin.

- National Industrial Conference Board. *Elements of Industrial Pension Plans*. Monograph No. 7. New York: National Industrial Conference Board, Inc., 1931, 48 pp.
- Pritchett, Henry S. "Pension Legislation." *Sixteenth Annual Report of the President and of the Treasurer*. New York: The Carnegie Foundation for the Advancement of Teaching, 1921, pp. 115-34.
- . "Pension System and Pension Legislation." *Twentieth Annual Report of the President and of the Treasurer*. New York: The Carnegie Foundation for the Advancement of Teaching, 1924, pp. 137-74.
- . "Pension System and Pension Legislation." *Twentieth Annual Report of the President and of the Treasurer*. New York: The Carnegie Foundation for the Advancement of Teaching, 1925, pp. 139-71.
- . "Teachers Pension." *Seventeenth Annual Report of the President and of the Treasurer*. New York: The Carnegie Foundation for the Advancement of Teaching, 1922, pp. 135-43.
- . *The Social Philosophy of Pensions with a Review of Existing Pension Systems for Professional Groups*. New York: The Carnegie Foundation for the Advancement of Teaching, 1930, 85 pp.
- Prosser, Charles S. *The Teacher and Old Age*. Boston: Houghton Mifflin Co., 1913, 140 pp.
- Palmer, Nida Pearl. *Pension Systems for Public School Teachers*. U. S. Bureau of Education, Bulletin 23. Washington: Government Printing Office, 1927, 84 pp.
- Ryan, W. Carson, and King, Robert. *State Pension Systems for Public School Teachers*. U. S. Bureau of Education. Bulletin 14. Washington: Government Printing Office, 1916, 46 pp.
- Robbins, Rainard. *Retirement Plans for College Faculties*. New York: Teachers Insurance and Annuity Association of America, 1934, 68 pp.
- Savage, Howard J., and Cogswell, Edmund S. *A Retirement Plan for Colorado Public Schools*. New York: The Carnegie Foundation for the Advancement of Teaching, 1928, 72 pp.
- Teachers Insurance and Annuity Association of America. *Planning a Retirement System*. New York: Teachers Insurance and Annuity Association of America, 1934, 30 pp.

Index

INDEX

- Accounts, according to N.E.A. principles, 14
 - keeping of individual, 73, 85
 - audit of, 76, 89
 - discussion of N.E.A. principle by Robbins, 98
- Actuarial basis, system should be built upon, 14
 - under present New Mexico retirement system, 30
 - discussion of, by Robbins, 98-99
- Actuarial investigations, according to N.E.A. principles, 14
 - need of when plan is underwritten, 19
- Administration of New Mexico retirement system, 31
 - cost of administering proposed plan, 54
- Age of retirement, under the New Mexico system, 27
 - under the model plan for New Mexico, 47-48
 - according to model laws, 74, 86
 - discussion of, by Robbins, 94
- Allowances, see benefits
- Annuity, kinds, 10
 - definition of, 67, 79
- Beneficiaries, designation of, 75-76, 88
- Benefits, retirement, according to N.E.A. principles, 13-14
 - disability, according to N.E.A. principles, 14
 - method of paying according to N.E.A. principles, 15
 - comment on N.E.A. principle, 16-17
 - under the New Mexico system, 38-39
 - method of paying under model plan for New Mexico, 47-48
 - to teachers, 57-58, 63
 - options in model laws, 73-74, 85-86
 - at death, 75, 87
 - discussion of, by Robbins, 94-96
- Board, see retirement board
- Cash withdrawals, see withdrawals
- Certificates of membership, 49, 68, 80
- Contracts, retirement law as part of, 76, 88-89
- Contributions, according to N.E.A. principles, 14
 - withdrawal of employer's, 19
 - principle of joint, 22
 - amount of, 22-23
 - how computed by insurance companies, 23
 - under New Mexico system, 33-37
 - under the model plan for New Mexico, 46-47
 - in model laws, 71-72, 84-85
 - after resumption of service, 74, 86-87
 - on leave of absence, 74-75
 - discussion of, by Robbins, 95-98
- Costs, for clerical help under New Mexico system, 26
 - of administering proposed plan, 54
 - of disability benefits, 53-54
 - methods of decreasing, 54-56
 - to teachers, 56-57
 - total to state, 59, 62
- Death benefits, under the New Mexico system, 39
 - under the model plan for New Mexico, 49
 - in the model laws, 75, 87
- Definitions, 9, 66-67
- Delimitations of study, 9
- Disability, definition of, 10
- Disability benefits, according to N.E.A. principles, 14
 - advisability of including in retirement systems, 17
 - under the model plan for New Mexico, 47
 - costs of, 53-54
 - discussion of, by Robbins, 99
- Disposition of interests of members who die intestate or without heirs, 76, 88

- Employee, definition of, 79
 duty to furnish information, 68, 80
- Employer, definition of, 67
 statement to retirement board, 68, 80
 reports to retirement board, 68, 81
 duties as to collection of contributions, 72-73, 84-85
 duty to notify employees, 76, 89
- Exemption from taxation of member's interests, 76, 88
 of retirement funds, 76, 88
- Ex officio members on retirement boards in New Mexico system, 31
 discussion of, 44
- Experience, definition of, 67, 79
- Financing retirement system, methods of carrying obligations, 21-22, 23-24
 under the model retirement plan for New Mexico, 50
- Folsom, M. B., view on pensions, 8
- Funds, of retirement system, 78, 83
 collection of, 72, 84-85
 disposition of residues, 76, 88
 disposition of balances of present retirement system, 77, 89
 discussion of N.E.A. principle in regards to need of reserve, 98-99
- Higher institutions, advisability of including in a state retirement system, 10-11
- Industrial Conference Board, view on N.E.A. principles, 16
- Interest, definition of, in model laws, 67, 79
- Joint contributions, see contributions
- Kimball, Ingalls, schemes of calculating pension liability, 24-25
- Leave of absence, 74-75, 87
- Membership in retirement systems, according to N.E.A. principles, 13
 under New Mexico system, 32
 under model plan for New Mexico, 43-44
 service period as a condition for, 46
 according to model laws, 67-68, 79-80
 certificates of, 68, 80
 Robbins' evaluation of N.E.A. principle, 93-94
- Model retirement laws, 65-90
- Model retirement plan, 42-50
- National Education Association, status of state pension systems, 7
 retirement principles prescribed by, 13-15
- National Industrial Conference Board, in regard to N.E.A. principles, 17
 withdrawal of employer's contributions, 19
 view on self-insurance, 33
- New Mexico retirement system, summary of, 26-28
 evaluation of, 28-33, 61-62
 finances and benefits of, 33-39
 from teachers' point of view, 39-41
 general recommendations on, 41, 64
 full text of law, 103-105
 evaluation of, by Robbins, 106-107
- Options, to employee on retirement, 47, 73-74, 85-86
- Past service, credit for, according to N.E.A. principles, 15
 how to care for, 20
 under the model plan for New Mexico, 49
 discussion of, by Robbins, 100-101
- Pensions, see benefits
- Principles of retirement system, as prescribed by committee of N.E.A., 13-15
 evaluation of N.E.A. principles, 15-21
 summary of, 60-61
 discussion of, by Robbins, 93-102

- Pritchett, Henry S., comment on N.E.A. principles, 15-16
 on death benefits, 39
 Professional employees, definition of, 9, 67
 Public schools, definition of, 9, 66
 Public school teachers, see teachers
 Purpose of study, 9
- Reciprocal relations, between state retirement systems, according to N.E.A. principles, 15
 discussion of principle and method of establishing, 21
 discussion of, by Robbins, 101
- Recommendations, in general, 64
- Refunding annuity, definition of, 10
- Reserve basis, need of, according to N.E.A. principles, 14
- Retirement age, see age of retirement
- Retirement board, according to N.E.A. principles, 15
 under the New Mexico system, 26
 under the model plan proposed for New Mexico, 43-46
 ex officio members on, 44
 method of selecting in model laws, 69, 81
 term of office in model laws, 69, 81
 filling of vacancies, 69, 81
 removal of, 69, 81
 compensation of, 69, 81
 powers and duties, 69-70, 81-83
 discussion of, by Robbins, 102
- Retirement systems, advantages claimed for, 7
- Roosevelt, Franklin D., view on pensions, 7
- Robbins, Rainard B., on cash withdrawals, 20
 evaluation of N.E.A. principles, 93-102
 letter on New Mexico system, 106-107
- Salary, definition of, 67, 79
 deductions from, 72-73, 84-85
- School year, definition of, 67, 79
- Self-insurance, definition of, 10;
 prevalence of, 21-22
 advisability of under New Mexico system, 33
 recommendation for model system, 42-43
 advantages of, 43, 65
- Simple life annuity, definition of, 10
- Teachers, definition of, 9
 rights under plan superseded by another according to N.E.A. principles, 15, 20-21
- Teachers Insurance and Annuity Association, retirement system for colleges, 10-11
 on disability benefits, 17
- Transfer, from one system to another according to N.E.A. principles, 15
 under the model plan for New Mexico, 49
 from previous state retirement system, 77, 89
- Treasurer of retirement system, 70-71, 83
- Underwriting, extent employed, 21-22
 recommended for New Mexico model plan, 42-43
- Transfer to another system, 75, 87
- Withdrawals, according to N.E.A. principles, 14-15
 of employer's contributions, 19-20
 of teacher's contributions, 20
 options, 21
 under the model plan for New Mexico, 49
 according to model laws, 74, 86
 discussion of, by Robbins, 99-100

